

MASS. AF17.2: C 49 ✓

The Commonwealth of Massachusetts



312066 0281 5537 1

CIVIL SERVICE LAW AND RULES

INCLUDING LEGISLATION THROUGH 1972

DIVISION OF CIVIL SERVICE

Government Documents
Collection

AUG 7 1973

University of Massachusetts



EXTRACTS FROM SELECTED GENERAL LAWS AND SPECIAL ACTS

GENERAL LAWS, CHAPTER 13, AS AMENDED

SECTION 1. (Repealed by 1969, c. 704, s. 16.)

DIVISION OF CIVIL SERVICE

SECTION 2. (1939, c. 238; 1941, c. 403; 1945, c. 681; 1946, c. 591; 1948, c. 580; 1950, c. 821; 1951, c. 716; 1955, c. 730; 1957, c. 699; 1963, c. 801; 1969, c. 704, c. 766; 1971, c. 116, 1102; 1972, c. 300.) There shall be a division of civil service under the supervision and control of a director of civil service, who shall be the executive and administrative head of the division, and a commission, to be known as the civil service commission, consisting of five members, one of whom, because of vocation, employment, occupation or affiliation, can be classed as a bona fide representative of labor.

The director of civil service shall be appointed by the commission. He shall be a person familiar with the principles and experienced in the methods and practice of personnel administration. The term of office of said director shall be five years, except that he may be removed, upon charges after a public hearing, by a four-fifths vote of the whole commission for proper cause or for substantial failure to administer the division in such a way as to develop a career service based on merit. In addition to the duties imposed upon him by this chapter and chapter thirty-one, he shall, at the request of the commission, attend any or all of its meetings, but shall have no vote. Said director shall receive a salary of twenty-nine thousand four hundred and one dollars and shall devote his full time during business hours to the duties of his office.

The director, if his action is supported by four affirmative votes of the commission, may designate some person within the division as acting director of civil service, to perform the duties of the director during his temporary absence or disability. Such acting director shall not receive any additional compensation therefor.

In the event of a vacancy in the office of director, the commission may appoint an acting director for not more than six months.

The commission may in its discretion restrict appointments to said office of director to persons passing a competitive examination, in which case examinations shall be conducted and appointments made in accordance with the following requirements. The commission shall appoint an examining committee of three persons to examine the qualifications of all persons applying for appointment to the office. The members of the examining committee shall be chosen from among the most competent examiners or administrators available in the field of public personnel administration. Such examining committee shall be paid its necessary traveling expenses, and such fees as may be determined by the commission. It shall determine its own examining procedure and requirements. The vacancy shall be advertised publicly and a reasonable time provided for the filing of applications. As soon as practicable after the completion of the examinations, the examining committee shall certify to the commission the names of three persons found by it to possess in the greatest degree the necessary qualifications for the office of director. The commission shall then appoint to said office one of the persons so certified. Said office shall not be subject to the provisions of chapter thirty-one. Appointment of any person as director, other than one who has passed an examination and has been certified to the commission as aforesaid, shall be by the affirmative vote of not less than four members of the commission. The decision of the commission to restrict an appointment of such director to persons examined and certified as aforesaid shall be advertised publicly and shall be irrevocable upon such publication.

SECTION 2A. (1939, c. 238; 1941, c. 457; 1945, c. 725; 1946, c. 591; 1948, c. 575; 1950, c. 821; 1951, c. 589; 1952, c. 473; 1955, c. 730; 1960, c. 735; 1963, c. 801; 1969, c. 766; 1971, c. 116; 1972, c. 300.) Upon the expiration of the term of office of a commissioner of the civil service commission, his successor shall be appointed by the governor, with the advice and consent of the council,* for five years. The governor shall designate one of the members as chairman. Not more than three members of said commission shall be members of the same political party. The chairman shall receive a salary of fourteen thousand three hundred and seventy-two dollars and each other member shall receive a salary of thirteen thousand three hundred and twenty-nine dollars. The commissioners shall receive their traveling and other necessary expenses incurred in attending such meetings.

SECTION 3. (1939, c. 238; 1967, c. 780.) The director of civil service may appoint and remove, in accordance with chapter thirty-one, such officers and employees as the work of the division of civil service may require. He may organize the division into subdivisions and area offices and assign officers and employees of the division thereto. He may expend for the compensation of officers and employees so appointed, and for the necessary traveling and other expenses for himself, the commissioners and employees of the division whose duties require them to travel, such amounts as are appropriated therefor.

SECTION 4. (1939, c. 238.) Meetings of the commission shall be held at least once a month at such times as it may by rule determine, and when requested by any member thereof or by the director of civil service.

SECTION 5. (1939, c. 238.) Said commission, any member thereof, or the director of civil service, may require any official or employee of the division of civil service to give full information, and produce all papers and records, relating to any official act performed by him.

SECTION 6. (1939, c. 238; 1967, c. 284.) The director of civil service may designate persons outside of or in the official service of the commonwealth, or of any city or town where chapter thirty-one is in force, who shall, with the consent of the head of the department or office in which any such person in such official service serves, act as examiners of applicants for any public employment and perform such other duties as may be required by said director, but no person elected by popular vote to public office shall serve as aforesaid, nor shall any person so serve when any relative or connection by marriage, within the degree of first cousin, is an applicant.

Notwithstanding any provision of section ninety-one of chapter thirty-two to the contrary, the director of civil service may reemploy a former examiner who is retired from the service of the commonwealth or any of its political subdivisions to act as such examiner. Such reemployment shall not affect the pension or retirement rights or amount of pension or retirement allowance of any person reemployed as an examiner; provided that the total annual compensation received for such reemployment as an examiner does not exceed two thousand dollars.

SECTION 7. A person holding an office or position to which he has been elected by the people, or by the aldermen or city council of a city or the selectmen of a town, shall not be eligible for appointment to the office of representative of the division of civil service.

*See Acts of 1964, Chapter 740 which negates the provision requiring the advice and consent of the council.

GENERAL LAWS, CHAPTER 31, AS AMENDED

CIVIL SERVICE.

SECTION 1. (1939, c. 238; 1945, c. 703; 1953, c. 153; 1966, c. 127; 1967, c. 780; 1968, c. 652, 756; 1969, c. 3, 4, 36, 45, 298, 704; 1971, c. 179, 657, 683, 685.) In this chapter, unless otherwise expressly provided or the context otherwise requires, the following words and phrases shall have the following meanings: —

“Appointing authority” or “appointing officer”, any person, board or commission having the power of appointment or employment or, if any such board or commission having one or more unpaid members delegates one or more of its members to exercise one or more of the duties imposed, or of the powers conferred, by this chapter, such member or members to the extent of such delegation.

“Appointment”, in respect to the several types of appointments, as follows: —

“Emergency appointment”, an appointment made for a specified time without requisition to cover an unforeseen emergency.

“Intermittent appointment”, an appointment from an eligible list to recurrent employment which may be regular or irregular as the needs of the service require.

“Permanent appointment”, an appointment to a permanent position made in accordance with this chapter and the rules made thereunder, and subject to a probationary period of six months except where otherwise provided.

“Provisional appointment”, an appointment authorized on a requisition when there is no suitable eligible list.

“Temporary appointment”, an appointment made for a specified time, after certification from an eligible list.

“Civil service”, classified civil service provided for by this chapter and the rules made thereunder.

“Class”, a group of positions sufficiently similar in respect to the duties and responsibilities thereof that the same or similar requirements are demanded of incumbents.

“Commission”, the civil service commission.

“Commissioner”, a commissioner of the civil service commission.

“Competitive examination”, an examination where the applicants are in competition.

“Continuous examination”, an open competitive examination held from time to time whenever the director determines that the public convenience so requires, as provided in section eight A.

“Competitive promotional examination”, a competitive examination for promotion to be conducted as provided in section fifteen.

“Department”, a department, board, or commission, or any division, institutional unit or other unit of a department in case such unit is established by law, ordinance or by-law.

“Departmental promotional examination”, a competitive examination within a department for promotion within the department, to be conducted as provided in sections fifteen, fifteen B and twenty.

“Director”, the director of civil service.

“Discharge”, the permanent involuntary separation from the service of an officer or employee because of incompetency, misconduct, act, neglect or refusal to act.

“Division”, the division of civil service.

“Eligible list”, a list established by the director in accordance with this chapter and the rules made thereunder, from which certifications are made to appointing authorities upon requisition.

“Executive office promotional examination”, a competitive examination within an executive office established under the provisions of chapter six A, for promotion within said office, to be conducted as provided in section fifteen.

“Grade”, a subdivision of a class, including all positions with substantially

identical authority, duties and responsibility, as distinct from all other grades in that class.

“Labor service”, shall include positions placed in such service under the rules of the commission.

“Layoff”, temporary discontinuance of employment for lack of work or lack of money.

“Mentally retarded person”, a person determined by clinical evaluation to have a condition manifested by subaverage general intellectual functioning which originated during the developmental period and is, or was, associated with impairment in adaptive behavior in maturation, learning, or social adjustment.

“Noncompetitive examination”, an examination given to an individual selected for original appointment by an appointing authority when it has been impossible to establish an eligible list.

“Official service”, shall include positions placed in such service under the rules of the commission.

“Promotion”, a change from the duties of one grade to the duties of a higher grade in the same or a different class as determined by the director, or a change from the duties of one grade to a grade which is not higher, where there are substantially dissimilar requirements which prevent a transfer under section sixteen A, and the provisions of this chapter providing for promotions are followed in filling a vacancy.

“Qualifying examination”, an examination given to test the qualifications of an incumbent whose position is placed under civil service by law or rule, or an examination given to an individual to qualify for promotion, as provided in section fifteen.

“Registered physician”, a qualified physician registered in the commonwealth under section two of chapter one hundred and twelve or corresponding provisions of earlier laws.

“Reinstatement”, the restoration to employment of an officer or employee made in accordance with this chapter and the rules made thereunder.

“Resignation”, a permanent voluntary separation from the service.

“Roster”, a list of permanent civil service employees in a department, arranged according to seniority, and supplemented by a list of employees appointed on a temporary or provisional basis.

“Suspension”, the temporary, involuntary separation from service for just cause, made in accordance with the provisions of section forty-three.

“Town”, shall not include a city.

“Unassembled examination”, an examination which consists of grading an examinee on the basis of his training and experience.

“Unauthorized absence”, an absence from work for a period of more than fourteen days for which no proper notice has been given to the appointing authority by the employee, or person authorized to do so, and which may not be charged to vacation or sick leave allowance, or for which no approval was given as provided for in section forty-six E, which absence shall be deemed to be an abandonment of his position and to be a permanent and voluntary separation from the service.

SECTION 2. (1939, c. 238; 1945, c. 725; 1962, c. 270; 1964, c. 720; 1969, c. 15.) In addition to other duties imposed by this chapter and chapter thirteen the commission shall —

(a) Make investigations at its own discretion, or whenever requested in writing by the governor, the council, the general court or either branch thereof, the director, an aggrieved person, or by ten registered voters.

(b) Hear and decide all appeals from any decision or action of, or failure to act by, the director, upon application of a person aggrieved thereby; provided, that no decision or action of the director shall be reversed or modified or action be taken, in case of failure of the director to act, except by three affirmative votes of the commission, and in each case the specific reasons therefor shall be stated in the records of the proceedings of the commission. Hearings on any appeal may be held before less than a majority of the commission or the chairman may as-

sign a member or members to hold such hearings and to report his or their findings of fact and recommendations to the commission for action. An appeal from a decision determining the results of an examination shall be in writing in the form approved by the commission, and shall contain a brief statement of the facts upon which such appeal is based; provided, that no decision of the director relating to an examination mark shall be reversed and no such mark changed unless the commission finds that it was through error, fraud, mistake or in bad faith, and in each case of reversal of such decision or change in marking the specific reasons therefor shall be stated in the records of the proceedings of the commission. In the grading of the subject of training and experience in any competitive examination, no credit shall be allowed, either in the original marking of the examination, upon review of the original marking by the director, or by the commission, whether upon an appeal from the decision of the director or otherwise, for employment or experience in the position for which the examination is held, unless such employment or experience in the position was the result of an appointment or promotion after certification from an eligible list for the position.

(c) Make an annual report to the general court, recommending legislation for the administration and improvement of the civil service. The annual report of the director to the commission shall be included, and may be supplemented by any additional comment, criticism, or suggestion for the more effectual accomplishment of the purposes of this chapter which the commission may care to submit. The annual report of the commission shall also contain any rules adopted, amended or revoked under authority of any provision of this chapter since the submission of the preceding annual report.

(d) Keep full and complete minutes of its proceedings.

SECTION 2A. (1939, c. 238, 506; 1941, c. 402, 721; 1945, c. 725; 1951, c. 302; 1953, c. 286; 1954, c. 295, 680; 1961, c. 287; 1965, c. 9, 53; 1967, c. 780; 1968, c. 469; 1969, c. 5, 12; 1970, c. 4; 1971, c. 220, 221, 289; 1972, c. 612.) In addition to other duties imposed upon him by this chapter and chapter thirteen the director shall —

(a) Administer and enforce all laws and rules relating to the enforcement of the civil service law as applied in the commonwealth and comply with all decisions of the commission made under this chapter.

(b) Establish, with the approval of the commission, classification plans for positions in every city and town which are subject to any provision of this chapter. Upon the establishment of such classification plan the director shall forthwith make such plan effective. He shall keep said classification plan current, and, with like approval, may from time to time amend or change said classification plan.

(c) Designate places in the commonwealth where applicants may register for positions and employment in the labor service of the commonwealth and of the cities and towns having such a service subject to this chapter.

(d) Approve or disapprove specifications and qualifications for any office or position in a municipality or other political subdivision of the commonwealth, as submitted by the appointing authority for classification or examination purposes. If the specifications and qualifications as submitted are disapproved, and the appointing authority fails to furnish specifications and qualifications satisfactory to the director within thirty days after being notified by him of such disapproval, the commission shall establish the specifications and qualifications for such office or position. If, in preparing the notice for any examination for an office or position in the service of the commonwealth, the director believes the specifications previously approved in accordance with section forty-five of chapter thirty are insufficient to describe the office or position for the purposes of conducting the examination, he may include in such notice such additional or qualifying information as he deems necessary so to describe the office or position. No such notice shall be prepared and posted by the director until he has received from the appointing authority all information which he has requested regarding the duties

of such office or position and until he has approved a statement, filed by the appointing authority with him in such form as he shall prescribe, which sets forth the qualifications for such office or position and a proposal as to the type of examination desired and entrance requirements therefor. A copy of every such notice shall be filed with the specifications maintained pursuant to said section forty-five.

(e) Determine and pass upon the qualifications of applicants; and hold examinations for the purpose of establishing eligible lists of persons for appointment or promotion to positions in the official service of the commonwealth and the cities and towns thereof which are subject to any provision of this chapter. Examinations to establish a list for appointment may, in the discretion of the director, and with the approval of the director of personnel and standardization in the case of positions or employment in the service of the commonwealth, and if requested in the requisition of the appointing authority of a city or town in the case of positions or employments in the service thereof, be restricted either to male persons or to female persons, provided that such restriction has the prior approval of the Massachusetts Commission Against Discrimination. Examinations to establish a list for promotion shall not be restricted either to male persons or to female persons; provided, however, that whenever the duties and responsibilities of a position require special physical or medical standards or require custody or care of a person of a particular sex, the director may limit participation in examination or certification for promotion, as the case may be, to members of the appropriate sex, provided that such restriction has the prior approval of the Massachusetts Commission Against Discrimination.

(f) Establish such standards for the several offices and positions in the official or labor service as he may determine to be necessary, which standards shall not be waived or dispensed with in the case of any applicant; provided that the director in establishing such standards shall make provision for promoting opportunities for the employment of the handicapped, disadvantaged persons and persons formerly convicted of a crime.

(g) Establish eligible lists and certify upon requisition of the proper appointing authority the names of persons eligible for positions and employment in the service of the commonwealth and the cities and towns thereof which are subject to any provision of this chapter.

(h) Certify the names of persons for employment, according to districts established by the state department of public works, in the labor service of said department.

(i) Keep complete and accurate records of all examinations held, of all eligible lists established, of all persons certified for appointment, and of all permanent, provisional and temporary appointments made in the official or labor service.

(j) Examine or direct the examination of all pay rolls, bills and accounts for the payment of salaries and compensation of persons in the official or labor service, and make any investigation regarding the same as he may deem necessary.

(k) On the tenth day of October, January, April and July make a report to the commission containing complete information as to the division's activities during the preceding quarter, including data on examinations, a complete list of noncompetitive appointments, if any, and a list of provisional appointments made. Such report shall be a public record, and copies of it shall be furnished to the governor and to the state library. On or before October first of each year, the director shall also make a report to the commission concerning the work of the division for the previous fiscal year, including his recommendations, if any, for the improvement of such work.

(l) Decide in the first instance all reviews of markings on examination papers requested by applicants.

(m) Establish a recruitment program to recruit persons to fill vacancies for offices and positions in the classified civil service.

(n) Develop programs and advise and assist appointing authorities in promoting opportunities for employment of the handicapped, persons determined by the director to be disadvantaged and, whenever possible, subject to the provisions of this chapter, for the rehabilitation and employment of certain persons who have been convicted of violating the laws of the commonwealth.

(o) Delegate the administration of civil service functions, so far as practicable, to cities and towns.

RULES.

SECTION 3. (1939, c. 238, 498; 1941, c. 190; 1945, c. 702; 1955, c. 643; 1967, c. 780.) Subject to the approval of the governor, the commission from time to time shall make and may amend rules which shall regulate the selection and employment of persons to fill positions in the official service and labor service of the commonwealth and of the cities and towns thereof, which positions are subject to any provision of this chapter.

Such rules shall be of general or limited application and consistent with law and shall include provisions for the following: —

(a) Establishment of civil service classes and grades, provided, that for employment in the service of the commonwealth such classes and grades shall be consistent, so far as practicable, with specifications established by section forty-five of chapter thirty.

(b) Including within the civil service offices and positions not otherwise exempted by law and placing said offices and positions in the official or labor service.

(c) Open competitive and other examinations to test the practical fitness of applicants.

(d) Registration of applicants for the labor service.

(e) Selection of persons for positions and employments in accordance with the results of examinations, or in the order of application, or otherwise.

(f) Promotions, on the basis of merit ascertained by examination, and seniority of service.

(g) Preference to veterans in appointment and promotion.

(h) Subject to prior preference to disabled veterans, preference to blind persons in the employment by any state department, board or commission, in the office or offices of which dictating machines are used, of typists to take dictation solely from such machines.

(i) Transfers within departments, interdepartmental transfers, and transfers from one class to another, where such classes are similar in character.

(j) Delegation of the administration of civil service functions so far as practicable to cities and towns.

No rule and no change in any rule shall be effective until after a public hearing relative thereto has been held by the commission. Not earlier than thirty nor later than fifteen days before such hearing the commission shall send notice thereof to each member of the general court, to the mayor of each city and the selectmen of each town to which such rule or change relates, and shall also publish the same in one or more newspapers; and notice of the hearing shall also be sent within the same period to the clerks of the several cities and towns, who shall cause the same to be posted in the city and town halls and other conspicuous places. There shall be posted not less than three of such notices in every town and not less than twenty-five in every city, including one in each ward. This notice shall contain information as to where copies of the proposed rules may be obtained. After the hearing provided for by this paragraph, the commission may change, alter or amend any rule.

Changes in the rules, when approved, shall be printed forthwith for distribution, and a certified copy thereof sent to the mayor of each city and the selectmen of each town to which such changes relate, and to each member of the general court, and shall be published in one or more newspapers. Such publication shall specify the date when such changes shall take effect, which shall be not less than thirty days subsequent to the date of publication.

If a change in any rule is required because of an act of the legislature, the commission may change the rules without holding a public hearing. The provisions of this section relative to the publishing of the change in rule, however, shall apply.

SECTION 4. (1939, c. 238, 256; 1941, c. 49, 625, 627, 686; 1943, c. 246, 402; 1945, c. 701; 1949, c. 397, 765, 779; 1956, c. 294, 438, 652; 1957, c. 142; 1958, c. 583; 1959, c. 320; 1964, c. 24; 1966, c. 19; 1970, c. 5, 599.) The following, among others, shall be included within the classified civil service by rules of the commission: —

All persons having charge of steam boilers, heating, lighting or power plants maintained by the commonwealth;

All sealers and deputy sealers of weights and measures and inspectors and deputy inspectors of weights and measures in towns of over ten thousand inhabitants and in cities, whether such officers are heads of principal departments or not, and also the inspectors of standards in the service of the commonwealth;

Inspectors of plumbing;

Instructors in the Massachusetts Correctional Institution, Walpole, the Massachusetts Correctional Institution, Concord, and the Massachusetts Correctional Institution, Norfolk, and all other employees in said institutions having prisoners under their charge;

Janitors, custodians and supervisors of custodians of school buildings in cities and in such towns as have accepted the provisions of the civil service law relating thereto, and who are not otherwise exempt by statute;

Supervisors of attendance in cities;

Matrons of police departments in cities having more than thirty thousand inhabitants;

All permanent employees of the Massachusetts Correctional Institution, Bridgewater, except those specifically exempted by law and qualified physicians, registered nurses and licensed practical nurses.

The labor service of the state department of public works and the state airport management board except: (1) Laborers and chauffeurs employed between October thirty-first and April fifteenth to be used in connection with the removal of snow and the sanding of slippery surfaces with the incidental work thereto on the highways and airports of the commonwealth, such employment in each case not to exceed a total of ninety days within that period, and such employees shall not be used to do work performed by regular employees when available and able to perform the work satisfactorily; (2) Such temporary employees as required during and following a disaster or period of extreme danger when and as authorized by the governor, but not to exceed ninety days. Preference shall be given to veterans in making appointments and employing persons under the provisions of clauses (1) and (2) of this paragraph.

The labor service of the state department of public utilities;

All offices and positions of the Massachusetts Correctional Institution, Framingham, except those specifically exempted by law and qualified physicians, registered nurses and licensed practical nurses;

Tree climbers employed by the department of natural resources.

SECTION 4A. (1965, c. 157.) In a regional school district or a regional vocational school district which accepts the provisions of this section by vote of its regional district school committee, or its regional district vocational school committee, all nonacademic positions in the district shall be subject to the civil service law and rules whether or not the municipalities comprising the district have accepted the provisions of this chapter. Eligible lists shall be established on the basis of the regional school district or the regional vocational school district. Applicants for nonacademic positions in the service of a regional school district or a regional vocational school district must have been domiciled in a city or town comprising the regional school district or the regional vocational school district in which they seek service for six months next preceding the date of filing the application.

SECTION 5. (1939, c. 238; 1941, c. 402; 1945, c. 355, 701; 1948, c. 387; 1950, c. 397; 1951, c. 26; 1954, c. 298; 1963, c. 162; 1964, c. 199, 526; 1965, c. 31, 365, 471; 1967, c. 60, 780; 1968, c. 461; 1970, c. 161, 165; 1971, c. 187, 294; 1972, c. 311.) No rule made by the commission shall apply to the selection or appointment of any of the following: —

Officers and legislators elected by popular vote and persons appointed to fill vacancies in elective positions;

Heads of departments, members of boards and commissions, chaplains employed as such, members of authorities and other officers appointed by the governor, or whose appointment is subject to approval by the governor, and heads of municipal departments, except those expressly made subject to this chapter by statute;

Qualified physicians, registered nurses, graduate nurses, licensed practical nurses and student nurses in institutions and hospitals unless federal standards for a merit system of personnel administration apply;

Superintendents and assistant superintendents of charitable institutions unless federal standards for a merit system of personnel administration apply;

Students who are employed part-time in a school department or educational institution which they are attending; and student interns assigned to any agency under an agreement authorized by law with an educational institution or foundation;

Officers and employees of the legislative branch;

Judges and officers and employees of the judicial branch;

Officers, noncommissioned officers and enlisted men in the military or naval services of the state;

Directors of divisions authorized by law in the departments of the commonwealth except those expressly made subject to this chapter by statute;

Officers, secretaries and employees of the office of the governor or of the executive council, the office of the lieutenant governor, employees of the state treasurer appointed under section five of chapter ten, and employees of the commissioner of banks, except those expressly made subject to this chapter by statute;

Director of health, welfare and retirement trust funds board;

Teachers in the state department of correction whose duties require the possession of a teacher's certificate*;

Clerical employees in the registries of probate of all the counties;

City and town managers;

Assistant city or town managers, administrative assistants to city and town managers, secretaries, stenographers, clerks, telephone operators and messengers connected with the offices of city councils, mayors*, city managers, town managers and selectmen;

*This exemption does not include Instructors — see Section 4.

* See General Laws, Chapter 43, Section 25, on page 60.

Officers whose appointment or election is by a city council, or subject to its confirmation, except those expressly made subject to this chapter by statute;

City solicitors, assistant city solicitors, town counsels and assistant town counsel;

Legislative counsel in cities or towns;

Election officials, including registrars of voters;

Public school teachers and administrators whose duties require the possession of a teacher's certificate;

Employees of the treasurer and collector of taxes of any city or town;

Two employees of the city clerk of any city and two employees of the town clerk of any town;

Police and fire commissioners and chief marshals or chiefs of police and fire departments, except as provided in section forty-eight;

Male school traffic supervisors of male employees not members of the regular police force who are doing intermittent work protecting school children going to and from schools;

Parking meter supervisors, except as provided in section forty-eight B;

Professional librarians and subprofessional librarians whose duties require that they have certificates issued by the board of library commissioners and pages who are employed in libraries on a part-time or intermittent basis and are full time day high school students between the ages of fourteen and eighteen or full time day college students between the ages of seventeen and twenty-three;

Such others as are by law exempt from the operation of this chapter.

SECTION 5A. Each officer, board and commission appointed by the governor, with the advice and consent of the council, having supervision and control of an executive or administrative department, board or commission of a municipality, may appoint and remove a person to serve as his or its confidential secretary. Such employee shall receive such compensation as shall be fixed by said officer, board or commission, as the case may be, and shall be exempt from the provisions of this chapter.

SECTION 5B. (1970, c. 162; 1971, c. 370.) No rule regulating the height and weight of persons eligible to become members of fire and police forces of a city or town shall be made or enforced except by the city council or selectmen, provided that no such rule made by a city council or selectmen may require a minimum height for applicants in such a police force greater than five feet seven inches, nor require a lesser minimum height without the approval of the director.

An applicant for fire fighter shall have reached his nineteenth birthday on the date of the examination.

No person shall be eligible to become an applicant for fire fighter or police officer in a city or town, the metropolitan district police force, the Massachusetts Bay Transportation Authority police force or capital police force who has reached his thirty-fifth birthday on the date of the examination. In case an eligible list of at least two available persons is not established from a competitive examination for such fire fighter or police officer the director may, upon request of the appointing authority of a fire force or police force made within six months after the results of the examination are determined, fix a maximum age limit for applicants who have not reached their fortieth birthday on the date of the next subsequent written examination.

SECTION 6. (1939, c. 238; 1949, c. 430; 1966, c. 18; 1970, c. 154.) Whenever the name of a person has been certified from an eligible list established as the result of an open competitive examination and he refuses to accept temporary or permanent employment after having previously expressed his willingness

to accept such employment or whenever he fails to respond to a notice of certification, his name shall be removed from the eligible list unless a satisfactory explanation of the refusal or failure to respond is given in writing to the director during the period of eligibility of the list; provided, however, that no person shall in any case be eligible for further certification if on the occasion of three such certifications he refuses to accept employment. No rule shall prevent the director, in his discretion, from accepting an application for registration or examination from any person who has been dismissed from the public service, or has resigned therefrom during the pendency of charges against him, or from permitting any such person, upon application, to be registered or to take an examination.

SECTION 6A. (1965, c. 580, 775; 1967, c. 443, 780; 1968, c. 261; 1969, c. 484; 1970, c. 155; 1972, c. 297.) Educational requirements may be established by the director for any position where in his opinion such educational requirements are essential for the proper filling of a position, but if such requirements are expressly imposed by statute as a condition of taking a civil service examination they shall be enforced to the extent of the requirements so imposed; and if, as a condition of receiving federal grants for programs and activities to which the federal standards for a merit system of personnel administration relate, federal requirements make necessary the application of educational qualifications to any office or position of the commonwealth or political subdivision thereof, the director, other than in the case of an emergency appointment under section fifteen, shall apply such educational requirements to such office or position in the manner and extent necessary to meet federal requirements, notwithstanding any provision of law to the contrary or whether such office or position is to be filled by appointment, promotion or transfer, except a transfer to a position with substantially identical authority, duties and responsibility, or however otherwise designated, and no person other than an emergency appointee shall enter upon such position who does not meet the educational requirements so required to be established.

Except as required by said statutes or to meet said federal requirements, as set forth in the preceding paragraph, nothing in this section shall be deemed to prevent the director from establishing, at his discretion, substitutions for educational requirements where such substitutions are advisable and proper.

Applicants for appointment as regular police officers in any city or town, the metropolitan district police force, or the Massachusetts Bay Transportation Authority police department, or as correction officers, or as capitol police officers shall have graduated from high school or possess an equivalency certificate issued by the department of education or have served at least three years in the armed forces of the United States and were last discharged or released therefrom under honorable conditions; provided, however, that the director may waive the foregoing requirements for a subsequent examination at the request of the appointing authority in case an eligible list of at least two available persons possessing such requirements is not established from a competitive examination held to fill said positions.

Upon written request of an appointing authority that certain educational qualifications be required for applicants for entrance to the fire service in his particular jurisdiction, such educational requirements may be established by the director.

SECTION 6B. (1967, c. 780; 1969, c. 298; 1970, c. 468; 1972, c. 389.) Whenever qualifications of a scientific or professional character requiring education at or above the master's degree level are established for an office or position by statute or under authority thereof, the director, in his discretion and subject to the provisions, wherever applicable, of section twenty-three, may rely upon an unassembled examination to qualify and rank applicants for appointment or promotion to such position.

At his discretion and subject to the provisions, wherever applicable, of section twenty-three, the director may rely upon an unassembled examination to qualify

and rank applicants for appointment or promotion to a position the major duty of which is such that the incumbent is required to possess a certificate, registration or license issued after examination by one of the state boards of registration or examiners under the provisions of chapter one hundred and twelve, one hundred and forty-one or one hundred and forty-two, or a license or certificate of competency issued under the provisions of chapter one hundred and forty-six.

Section twelve A shall not apply to examinations held under this section; provided, however, that in the event of an error in grading the director shall have full authority to make any corrections he may deem necessary.

Wherever, as a condition of receiving federal grants for programs and activities to which the federal standards for a merit system of personnel administration relate, federal requirements make necessary the inclusion of a practical written test in an examination for a position in the service of the commonwealth or political subdivision thereof, the provisions of this section relative to an unassembled examination shall not apply.

SECTION 7. (Repealed by 1967, c. 780.)

EXAMINATIONS.

SECTION 8. (1939, c. 238, 396; 1945, c. 703; 1959, c. 318; 1962, c. 547; 1964, c. 521; 1967, c. 74; 1969, c. 6; 1971, c. 683.)

(a) Official Service. The director shall prepare notices of all open competitive examinations and send them to the clerks of the several cities and towns having persons domiciled therein who may be eligible to apply for said examinations, who shall cause all notices sent them to be posted in the city and town halls and in other conspicuous places at least three weeks prior to the final date for filing applications therefor. There shall be so posted not less than five of such notices in every such town, except in towns of less than twenty-five hundred population, where two such notices shall be posted, and not less than twenty-five in every such city, including one in each ward. The clerks of said cities and towns shall make an annual report to the director, at such time as he may determine, certifying that all such announcements have been so posted and setting forth such detail relative to the time and place of posting as the director shall require. The director may require additional posting or may modify the preceding requirements as he determines local conditions warrant. Such modification may include provisions for making the announcements available to the public, during the required periods of posting, in loose-leaf notebook or other form in lieu of actual posting on bulletin boards, as the director determines necessary and advisable. The director shall cause copies of such notices to be posted at similar times in a conspicuous place at the office of the division.

The director shall also prepare notices of all promotional examinations to be held on a competitive basis, and shall send copies of such notices to the appointing authority in the department in which the promotion is to be made and also to the appointing authority in any department in which persons eligible to take said examination may be employed. Said appointing authority shall cause such notices to be posted in conspicuous places in his department including one in each branch office of such department. A copy of said notice shall be mailed to any employee on sick or military leave; on vacation; or off the payroll during the entire period of the posting of such notice. Each appointing authority shall make provisions for keeping all persons in his department fully informed as to the places where such notices will be posted.

Notices of all such examinations shall state the duties and compensation of positions, the class or title, qualifications required therefor, time, place and manner of making application for admission to the examination, entrance requirements, if any, and any other information which the director considers pertinent and useful.

(b) Labor Service. Prior to any request to the director for promotion of a permanent employee in the classified labor service to a position of higher grade

in the classified labor service, or for a change within said service from the duties of a position of one grade to a position of a grade which is not higher, where there are substantially dissimilar requirements which prevent a transfer under section sixteen A, which may be either a temporary or permanent position, the appointing authority shall cause a promotional bulletin to be posted in locations where it can be seen by all employees eligible under the civil service law and rules for at least five working days. Such promotional bulletin shall state the title of the position to be filled, the salary and location of the position, any pertinent information as to any special qualifications, or licenses required by law to fill the position, and whether such position is permanent or temporary, and, if temporary, the probable duration of the vacancy. It shall also clearly state the last date for applying for such position. All such requests recommended by the appointing authority to the director shall be in conformance with the civil service law and rules. A promotional bulletin shall be mailed to any employee on sick or military leave; on vacation; or off the payroll during the entire period of the posting of such bulletin. Any request for promotion to the director shall state therein that such promotional bulletin has been posted indicating the location and date of the posting. Any such appointing authority or his designee who neglects or willfully refuses to post such notice shall be punished by a fine of not more than one hundred dollars.

Within fourteen days after the approval of the director of civil service of a promotion in the classified labor service, the appointing authority shall cause to be posted in all areas under the control of such authority where five or more civil service employees start their tour of duty, the name, permanent title, position to which promoted, and date of seniority of the person or persons so promoted. Any such appointing officer who neglects or wilfully refuses to post a copy of such list shall be punished by a fine of not more than one hundred dollars.

A SECTION 8A. (1967, c. 110; 1969, c. 117, 501; 1970, c. 468.) In addition to the examinations provided for by section eight, the director may prepare notices of open competitive examinations which shall be held from time to time whenever he determines that the public convenience so requires.

The provisions of section eight relative to the sending, posting and contents of notices shall apply to notices prepared under this section; provided, however, that such notice shall not state a final date for filing applications nor a date on which such examination shall be held. Applications for any such examination shall be received at any time after the posting of the notice, and applicants shall be given notice in writing or by oral instruction of the date of such examination. Section twelve A shall not apply to examinations held under this section; provided, however, that in the event of an error in grading the director shall have full authority to make any corrections he may deem necessary.

SECTION 8B. (1967, c. 780; 1970, c. 6; 1971, c. 197.) The director may waive domiciliary requirements in any examination for any person who has successfully completed at least one academic year at a recognized college or university in the commonwealth, provided such person meets all other entrance requirements.

SECTION 8C. (1968, c. 655; 1970, c. 468.) Once each year, or more often if the director determines that the public convenience so requires, the director shall hold a competitive examination, except as provided in section twenty open to citizens of the United States, wherever they may reside, who, at the time of such examination, have completed, or expect to complete within nine months, a four-year course leading to a bachelor's degree in an accredited college or university, or have any combination of education and experience in administrative, professional or investigative work acceptable to the director.

The form, method and subject matter of such examination shall be determined from time to time by the director. Notice of the examination shall take such form and be given in such manner and at such time or times as the director shall determine; and the director shall likewise determine when applications for the exami-

nation shall be received. Section twelve A shall not apply to examinations held under this section; provided, however, that in the event of an error in grading the director shall have full authority to make any corrections he may deem necessary.

Following each such examination, the director shall establish an eligible list containing the names of all persons who passed such examination and he shall place such names in the order specified by section twenty-three. Such list shall be open to public inspection. Each applicant shall be notified promptly of the results of his examination.

Certification from any such list shall be made by the director only to fill vacancies in offices or positions in the official service of the commonwealth and its subdivisions for which, with the approval of the commission, he determines the examination to have been appropriate and only upon request of the appointing authority for certification from such list.

SECTION 8D. (1970, c. 7.) The director shall cooperate with public and private colleges, universities and other institutions of higher education, which grant degrees and which provide facilities for educating students on the so-called "cooperative plan" of education whereby work-study programs are so developed and maintained that students enrolled therein may be employed in the service of any city or town in positions appropriate to their major academic interests. The employment of such students in said positions shall, upon certification to the director by a representative of such a college, university or institution that such student is enrolled therein under a "co-operative plan" of education, not be subject to the provisions of this chapter; provided that employment by the city or town of a student under such plan is for a stated and limited time.

SECTION 9. (1967, c. 110.) Any city or town clerk who refuses or willfully neglects to post the notices required by section eight and any person who maliciously tears down, destroys, defaces or injures any such notice prior to the date of any examination of which notice is given therein, shall be punished by a fine of not more than twenty-five dollars.

SECTION 10. (1939, c. 238, 498; 1945, c. 703; 1967, c. 562; 1968, c. 756; 1969, c. 6; 1972, c. 76.) No question in any examination or application shall relate to political or religious opinions or affiliations, and no appointment to a position or selection for employment shall be affected by them. Examinations shall be conducted under the direction of the director, who shall determine the form, method and subject matter thereof; provided, that they shall relate to matters which will fairly test the fitness of the applicants actually to perform the duties of the positions for which they apply. All answers of applicants to questions in examinations relating to education, training and experience shall be made under the penalties of perjury. The director shall determine the scope, weight and passing requirements of examinations.

Any such examination may include a practical test, or written examination, or oral examination, or any combination of them, at the discretion of the director, provided that whenever an oral examination is given, it must be used in conjunction with a written examination or practical test and further provided that any oral examination shall be conducted by a board of not less than three persons chosen by the director. If a blind person is an applicant for an examination for any position, the duties of which such applicant may properly perform, the director shall, in preparing such examination, make such provisions as will enable such blind person to take the examination, and, upon passing the examination, such blind person may be appointed to the position notwithstanding his inability to meet required physical standards so far as they relate to the eyes.

Whenever an appointing authority makes requisition to fill a temporary position in the classified civil service and attaches thereto a request that approval be given for the employment of a mentally retarded person in the position, the director may, notwithstanding the provisions of this chapter or any other law, approve such employment, provided that the appointing authority certifies that

in his opinion the duties of the position may be performed by a mentally retarded person. The appointing authority shall forward the name of such mentally retarded person to the director together with a certificate from the Massachusetts rehabilitation commission that said person is mentally retarded and a statement of approval of such employment of said mentally retarded person from said commission. The director may also require the appointing authority to submit a written agreement including the following: (1) a statement by the appointing authority as to the specific position, title, grade and duties to be assigned to the mentally retarded person who is to be employed, and the title of the immediate supervisor of such position, (2) a statement by the appointing authority that prior to employing the mentally retarded person it has obtained a certificate from the Massachusetts rehabilitation commission that the retarded person (*a*) can satisfactorily perform the duties of the position, (*b*) is qualified to do the work without hazard to himself or to others, and (*c*) is socially competent to maintain himself in a work environment, (3) a commitment by the appointing authority that it will fully utilize the services of the Massachusetts rehabilitation commission for assistance to the employee's immediate supervisor in the training and supervision of the employee and for post-placement counseling to the employee, (4) a statement that the appointing authority will not terminate a mentally retarded person's employment without prior notification to the Massachusetts rehabilitation commission. Thereupon, the director of civil service shall approve such appointment. The director may require any such mentally retarded person to undergo such tests as in his opinion will test the fitness of the applicant to properly perform the duties of the position.

Upon the approval by the director of such employment in accordance with the provisions of this section, the retarded person shall be regarded as properly appointed to the position and shall continue subject to the provisions of this chapter.

The position of any such mentally retarded person who has been employed in a year-round temporary position in the commonwealth for a continuous period of three years or more for which compensation has been duly paid or authorized under the same or a like item in prior appropriation acts shall be deemed to be a permanent position. The director of personnel shall, by title and code number and subject to the approval of the executive office for administration and finance, certify to the budget director, the comptroller, the director of civil service, each appointing authority concerned, and the house and senate committees on ways and means, each such position to be included.

Any appointments to positions for which the federal standards for a merit system of personnel administration apply shall not be approved unless the appointee meets such established standards.

SECTION 10A. (1972, c. 619.) Notwithstanding the provision of any law whenever the appointing authority certifies to the director of civil service that in his opinion the operation of a position within the police or fire department can be performed by a paraplegic and makes a request for approval for the employment of a paraplegic in the position, the director may, notwithstanding the provisions of this chapter or any other law, approve such employment. The appointing authority shall forward the name of such paraplegic person to the director together with a certificate from his attending physician that said person is a paraplegic. The director may also require the appointing authority to submit a written agreement including the following: (1) a statement by the appointing authority as to the specific position, title, grade and duties to be assigned to the paraplegic person who is to be employed, and the title of the immediate supervisor of such position, (2) a statement by the appointing authority that prior to employing the paraplegic that the paraplegic person (*a*) can satisfactorily perform the duties of the position, (*b*) is qualified to do the work without hazard to himself or to others, and (*c*) is socially competent to maintain himself in a work environment. Thereupon, the director of civil service shall approve such appointment. The director may require any such paraplegic person to undergo such tests as in his

opinion will test the fitness of the applicant to properly perform the duties of the position.

Upon the approval by the director of such employment in accordance with the provisions of this section, the paraprofessional person may be appointed to the position and shall continue subject to the provisions of this chapter.

The position of any such paraprofessional person who has been employed in a year-round temporary position in the commonwealth for a continuous period of three years or more for which compensation has been duly paid or authorized under the same or a like item in prior appropriation acts shall be deemed to be a permanent position. The director of personnel shall, by title and code number and subject to the approval of the executive office for administration and finance, certify to the budget director, the comptroller, the director of civil service, each appointing authority concerned, and the house and senate committees on ways and means, each such position to be included.

SECTION 11. (1959, c. 27; 1971, c. 237.) No person by himself or in cooperation with one or more persons shall wilfully or corruptly defeat, deceive or obstruct any person with respect to his right of examination, registration, certification, appointment, promotion or reinstatement pursuant to the provisions of this chapter or of the rules made thereunder; or wilfully or corruptly make a false mark, grade, estimate or report on the examination or proper standing of any person examined under this chapter; or wilfully or corruptly make any false representation concerning the same or concerning the person examined; or wilfully or corruptly furnish to any one special or secret information for the purpose of either improving or injuring the prospects or chances of appointment, employment or promotion of any person examined, registered or certified or to be examined, registered or certified. No person shall impersonate any other person or permit or aid in any manner any other person to impersonate him in connection with any examination, registration or application or request to be examined or registered or in connection with any certification, appointment or promotion.

SECTION 12. (1939, c. 238; 1945, c. 704; 1946, c. 271; 1948, c. 121; 1951, c. 27; 1954, c. 627; 1955, c. 571; 1964, c. 241; 1965, c. 445; 1966, c. 70; 1969, c. 25; 1972, c. 406.) Each list of persons eligible to any position shall be prepared or revised as soon as may be after their respective ratings or standings have been determined by the director by examination or otherwise in accordance with the rules of the commission, but, in case of the determination thereof by a written examination, not later than six months after the date of such examination. An eligible list may be established prior to six months from the date of examination. Where an eligible list for any position is established within six months of the date of the written examination, a provisional appointment or a temporary transfer to fill such position, whether permanent or temporary, may be continued for the period for which such appointment or transfer was authorized, any provision of section fifteen or section sixteen A to the contrary notwithstanding, but not beyond six months and fourteen days from the date of the written examination. The director shall not place on any such list any person not a citizen of The United States. All lists established as aforesaid shall be open to public inspection. All persons who have taken an examination shall be notified of the results thereof not later than sixty days after the date of such examination. Not more than one eligible list shall be established or maintained for any one position. Eligibility of applicants for placement on, and their standing on the eligible list shall be determined on the basis of the last examination taken for such position.

No person shall remain eligible for more than two years upon any eligible list, notwithstanding any other provision of law to the contrary, except provisions of law extending eligibility to persons in the military and naval service.

No person shall be deemed to have been appointed or promoted to any position requiring certification by the director from an eligible list unless the appointing officer, on or before the date of expiration of such eligible list, shall have notified the director in writing that such person has been so appointed or promoted.

If an eligible list for a permanent civil service position is in effect at the time a vacancy occurs in such position through death or retirement and if requisition is made to fill said vacancy within six months after said death or retirement, the director shall, if said eligible list has expired, reestablish said eligible list for the purpose of filling said vacancy and certifying from said list unless said eligible list was established on a statewide basis.

SECTION 12A. (1945, c. 704; 1948, c. 297; 1965, c. 261; 1966, c. 115; 1967, c. 64, 780; 1971, c. 235; 1972, c. 147.) Not later than seventeen days after the date of mailing of the notice of the director to the applicant of the results of his examination or notice that he did not meet the requirements for admission to the examination, the applicant may file with the director a request for a review of the markings of his examination paper, setting forth, in the form prescribed by the director, specifically in what particulars the markings of the examination are allegedly incorrect and the authorities relied upon by the applicant to support his allegations, a request for a review of his marking of training and experience, or a request for a review of the finding by the director that he did not meet the requirements for admission to the examination established by the director. The director may require applicants to submit copies of authorities for his review. The word "authorities", as used in this section, shall mean books or publications, and any reference thereto shall be made by titles, authors, editions, chapters, page numbers and direct and complete quotations which support the claim of the applicant.

The director shall decline to accept a request for a review of marking in any case where the applicant's marking in any subject of the written examination is less than fifty per cent or where the applicant has not set forth, in the form prescribed by the director and within the required time, specifically in what particulars the markings of the examination are allegedly incorrect, and the authorities relied upon by the applicant to support his allegations.

Within six weeks after acceptance of a request for a review of markings on any examination paper, the director shall cause such paper and the markings thereon to be reviewed, and shall transmit a copy of his decision to the applicant. If the director finds that an error was made in failing to grant credit for an applicant's answer to any question in the written examination, he shall make an adjustment for such error in the applicant's grade, and shall also adjust the grade of any other applicant who did not receive credit for the same answer because of such error. Nothing herein shall be construed to limit the right of the director to make an adjustment in an applicant's mark which will reduce the applicant's mark if the requested review of the markings of his examination paper indicates that an error was made in the credit granted for any of the answers in the examination. If in such review the director finds that an error was made in granting credit for an applicant's answer which should not have been granted, he shall also adjust the grade of any other applicant who also received credit for the same answer because of such error.

Not later than seventeen days after the date of mailing of the notice of the decision of the director, the applicant may appeal to the commission by filing a petition in a form approved by it and containing a brief statement of the facts as presented to the director for his review.

The commission shall decline to accept any appeal unless the request for review to the director was set forth in the form prescribed by the director and stated specifically in what particulars the markings of the examination are allegedly incorrect and the authorities relied upon by the applicant to support his allegations.

In the grading of the subject of training and experience in any competitive examination, no credit shall be allowed, either in the original marking of the examination, upon review of the original marking by the director, or by the commission, whether upon an appeal from the decision of the director or otherwise for any training and employment or experience not fully stated in the training and experience sheet filed at the time of examination.

No request by an applicant for a review of any of the markings on his examination paper shall be accepted by the commission, and no hearing shall be held or other action be taken relative thereto other than on an appeal from a decision of the director.

After filing of such an appeal, the commission shall hold a hearing, render a decision and transmit a copy of such decision to the appellant and to the director.

Nothing herein shall be construed to extend the time provided by law for the establishment of the eligible list based on such examination.

SECTION 12B. (1957, c. 401.) No applicant for the position of inspector of wires shall be certified by the director of civil service for such position unless he shall first have had issued to him, under the provisions of section three of chapter one hundred and forty-one, "Certificate A" or "Certificate B."

SECTION 13. (1945, c. 703; 1952, c. 214; 1971, c. 186, 796; 1972, c. 382.) Every application shall be made under the penalties of perjury and shall contain such information as the director deems necessary relative to an applicant's fitness for the public service and may include full name, domicile and post office address, citizenship, age, place of birth, health and physical capacity, right of preference as a veteran or a blind person, previous employment in the public service, occupation and residence for the previous five years and education of the applicant; but no question shall be asked in such application or in any examination requiring a statement as to any act of waywardness or delinquency or any offence committed before the applicant reached the age of seventeen. In filing such application, no applicant shall be required to furnish any information of arrests for any misdemeanor or felony which did not result in a court appearance, unless court action is pending; nor shall such applicant be required to furnish information on any complaint which was dismissed for want of prosecution or which resulted in a finding or verdict of not guilty; nor shall such applicant be required to furnish any information of arrests or dispositions for the following misdemeanors: — drunkenness, simple assault, speeding, minor traffic violations, affray or disturbance of the peace; provided, that the date of disposition of said offenses was ten years or more prior to the filing of said application.*

SECTION 13A. (1939, c. 238; 1945, c. 725; 1968, c. 20.) If, in the opinion of the director, physical qualifications are necessary or desirable for an original appointment to any office or position, he may order a physical examination; provided, that the minimum height requirement for applicants for the position of correction officer shall be five feet seven inches. For promotional examination he may require a certificate from a registered physician, approved by him, to determine the physical fitness of the applicant. Any applicant who shall have passed an examination may, before certification, be required to undergo such supplementary physical examination as the director may prescribe.

SECTION 14. (Repealed by 1945, c. 725.)

APPOINTMENTS.

SECTION 15. (1939, c. 238, 506; 1941, c. 491; 1945, c. 704; 1946, c. 103; 1947, c. 13; 1948, c. 489; 1951, c. 41; 1952, c. 317; 1954, c. 267, 376; 1955, c. 643; 1957, c. 46; 1960, c. 598; 1962, c. 236, 743; 1963, c. 119, 152, 396; 1964, c. 455, 720; 1965, c. 237, 580, 775; 1966, c. 127, 192, 290, 349; 1967, c. 57, 74, 112, 125, 683, 780; 1968, c. 91, 636, 652; 1969, c. 8, 9, 36, 896; 1970, c. 50, 65, 281, 392; 1971, c. 213, 214, 232, 685.)

No person shall be appointed or promoted to any position in the classified civil service except upon requisition by the appointing officer and upon certification by the director from an eligible list prepared in accordance with this chapter and the rules made thereunder. If there is no suitable eligible list, or if the director is

*See General Laws, Chapter 151B, Section 4, subsection 9, on page 68.

unable to comply with a requisition, he may, subject to section twenty-five, authorize a provisional appointment. A provisional appointment may be authorized pending the establishment of an eligible list; provided, that in any office or position in the commonwealth or any agency or political subdivision thereof where compliance with the federal standards for a merit system of personnel administration is a condition for the granting of federal funds, the director shall forthwith make arrangements to establish an eligible list within a year from the date of the approval of the provisional authorization.

Notwithstanding the provisions of this section, the director, together with the director of personnel and standardization and the comptroller, shall establish policies and procedures governing the appointment of interim employees and authorizing the placing of interim employees on a payroll for a period not exceeding sixty working days pending approval of a permanent, temporary or provisional appointment to fill any authorized permanent or temporary position. No person shall receive an "interim" appointment unless the appointing authority certifies on the payroll that in his opinion the proposed appointee meets the qualifications and requirements in the specifications for the position to be filled. No person who has received an emergency appointment shall immediately upon the expiration thereof receive an interim appointment, and no person who has received an interim appointment shall immediately upon the expiration thereof receive an emergency appointment. "Interim appointment" for the purposes of this section shall mean an appointment to an authorized permanent or temporary position in the service of the commonwealth for which a requisition is on file with the director of personnel and standardization.

Upon authorizing a provisional appointment whether to a permanent or temporary position, the director shall proceed to conduct an examination as he determines necessary; provided that for any office or position in the commonwealth or any agency or political subdivision thereof where compliance with the federal standards for a merit system of personnel administration is a condition for the granting of federal funds, such examination shall be held within a year from the date of the approval of the provisional authorization.

If, as a result of any examination, no suitable eligible list is established, authorization for a further extension of the provisional appointment, whether to a permanent or temporary position, may be granted by the director pending the establishment of an eligible list, upon the request of the appointing authority; provided that the director shall forthwith make arrangements to conduct another examination and establish an eligible list within eighteen months from the date of the determination of the results of such examination; and provided, further, that in any office or position in the commonwealth or any agency or political subdivision thereof where compliance with the federal standards for a merit system of personnel administration is a condition for the granting of federal funds, such examination shall be held within a year from the date of the last examination.

Authorization to make a provisional appointment shall be void if not exercised within two weeks.

* A provisional appointment to fill a permanent or temporary position shall be terminated by the director within thirty days after the establishment of an eligible list for such position, and it may be terminated by the director at any time.

Except as otherwise provided by this chapter, when there is no suitable eligible list, no person shall be appointed to an office or position by the appointing authority, and the director shall not authorize any provisional appointment to fill such an office or position, permanent or temporary, until the appointing authority has complied with the provisions of this chapter, including (1) the submission, in such form as the director shall prescribe, of a statement of the information the appointing authority believes necessary to conduct an examination, including: the duties of the office or position, the knowledges, skills and abilities necessary to perform said duties, and the entrance requirements of the office or position; (2) the certification to the director that in his opinion the person proposed to be provisionally appointed meets said qualifications and requirements; (3) the sub-

mission of a substantiating statement showing how the proposed appointee meets the entrance requirements; and (4) the submission of a proposal as to the type of examination to be held. The director shall review the statements, certification and proposal and if he determines them satisfactory may authorize a provisional appointment; provided, however, if he finds the proposed appointee does not possess the required qualifications and requirements he may refuse to authorize said provisional appointment. If the director and appointing authority are in agreement that the duties, qualifications and entrance requirements are correct as stated, and if no qualified person can be found to fill the position pending the holding of the examination, the position shall remain unfilled until the eligible list is established. If an emergency exists, and the appointing authority certifies that the position has to be filled, sets forth the reasons for the emergency, and submits a statement satisfactory to the director of what steps he has taken to find a qualified person, the director may authorize the filling of the position by a person who does not possess the qualifications and requirements approved. Said authorization under such emergency conditions shall not be construed to mean that said person is thereby ruled as eligible to take the examination. If no eligible list is established as the result of the scheduled examination, the director and the appointing authority shall confer and decide what action should be taken, including the holding of another examination on a different basis and the restructuring of the office or position. A requisition to make an appointment to fill a vacancy in a permanent position or in a newly created position for which funds have been appropriated or are available on a permanent basis shall state that such vacancy is to be filled on a permanent basis.

No provisional appointment shall be approved or continued, except in accordance with the provisions of section fifteen G; provided, however, that where a list has been established as the result of an open competitive examination, and the appointing authority requests that the office or position be filled by a competitive promotional or a qualifying examination, as provided in paragraphs A and B, a provisional promotion of a person from within his department may be authorized in accordance with the provisions of this chapter. Nothing herein contained shall affect the rights of disabled veterans as provided in section twenty-three.

Any alteration in the nature of the employment of a person holding such a provisional appointment or any increase in salary thereof shall immediately terminate such an appointment.

Except as otherwise provided in section ten, nineteen A, twenty A, twenty C, twenty-two, forty-seven A, forty-eight and forty-nine A of this chapter and section thirty-six of chapter forty-eight, no person shall receive an original appointment to the official service of the commonwealth or any city or town thereof other than by virtue of a competitive examination, unless (a) the director shall certify that he has previously held a competitive examination for the position involved and has been unable to establish an eligible list of at least two available persons; or unless (b) a position not under civil service is placed thereunder by virtue of a statute or rule and the director makes recommendations supported by four affirmative votes of the commission to include under civil service any present incumbent of the position, subject to passing a qualifying examination, prescribed by the director. If one person passes a competitive examination, his name shall be certified by the director to the appointing authority. A noncompetitive examination may not, however, be given to a person who failed a competitive examination or to anyone who was provisionally employed in a position and did not take the examination for said position.

A person may be certified from a civil service list to fill, for the duration of the vacancy, a temporary vacancy.

In case of an emergency except as otherwise provided in this paragraph which could not have been foreseen and where the public business would be seriously impeded by delay in filling any position in the manner provided by law, an appointing authority may make an emergency appointment without requisition; but in no case, except as otherwise provided in this paragraph, shall such emergency appointment continue for more than thirty days within the sixty consecutive days

next following, and in every such case he shall forthwith report the same to the director, stating the reason therefor, in such form and detail as the director may prescribe, and the time, not exceeding thirty days within the sixty consecutive days next following, for which such employment is to last. No such emergency appointment shall be renewed except with the consent of the director or be renewed more than once, except that in departments, institutions or hospitals the functions of which are connected with the public safety or public health where the public service would otherwise suffer, the director may renew such emergency appointment for one additional period; but no person shall receive more than one such appointment and renewal or renewals, as the case may be, in any twelve-month period. In case of an emergency in the position of laborer, which could not have been foreseen and where the public business would be seriously impeded by delay in filling the position in the manner provided by law, an appointing authority may make an emergency appointment without requisition; but in no case shall such emergency appointment continue for more than thirty days within the sixty consecutive days next following, except that the appointing authority may renew the emergency appointment for one additional period, as provided in this paragraph or, at his discretion, renew the emergency appointment immediately for a period not to exceed an additional fifteen days, in which event no further emergency appointment under this section may be given such laborer within the twelve-month period from the date that the thirty-day emergency appointment began; and in every such case the appointing authority shall forthwith report the same to the director, stating the reason therefor, in such form and detail as the director may prescribe, and the time, not exceeding thirty days within the sixty consecutive days next following, or the additional fifteen days provided for in this section, for which such employment is to last. If the person given such an emergency appointment as a laborer has had prior emergency employment under another title in the classified civil service within the twelve consecutive months next following the date of his first employment under the emergency appointment, the total emergency employment in any position, including that of laborer, shall not exceed a total of sixty days in any twelve-month period. Vacancies of which an appointing authority has had, or might with due diligence have, reasonable knowledge shall not be considered, an emergency under this section.

* A. An appointing authority, with the approval of the director, may promote in the same department in the official service a permanent employee in one grade to the next higher grade as determined by the director; provided that such employee has been employed in such department after certification on a permanent basis in the lower grade for at least three years next preceding the date of request, is the oldest employee, the second oldest employee or the third oldest employee in length of service, who is willing to accept such position, and that such employee passes a qualifying examination prescribed by the director. In case of promotions of more than one employee, the next oldest employees in succession in length of service may be selected from the same number of such oldest employees as that provided in the civil service rules governing certification for more than one vacancy. If there is only one permanent employee in a department of a city, town or district who is eligible for promotion, such employee may be promoted on the request of the appointing authority; provided, such employee has been employed on a permanent basis, after certification, for at least one year, and that such employee passes a qualifying examination prescribed by the director. This paragraph shall not apply in any case where a promotion is required to be made as provided in section twenty nor in the case of a temporary promotion except where the director is satisfied that there is a likelihood of the position becoming permanent within a reasonable period of time. If a person has been so temporarily promoted the director may, upon the request of the appointing authority, approve the promotion on a permanent basis when the position becomes permanently vacated without requiring a further examination. The effective date of a permanent promotion under this paragraph shall be the date on which the person passed the qualifying examination; provided, however, if the appointing authority has not assigned the person to the higher duties pending the passing of the examination, the effective date of the promotion shall be the date

on which the appointing authority certifies the person has assumed the higher duties.

B. (1) Except as otherwise provided in section twenty, all promotions in the official service in a department shall be made (a) in accordance with paragraph A, (b) after a departmental promotional examination subject to this clause or after a departmental promotional examination subject to clause (2) of this paragraph, (c) after an executive office promotional examination, (d) after a competitive promotional examination, or (e) the position shall be filled as the result of an open competitive examination, whichever method shall be selected by the appointing authority, with the approval of the director. Any such departmental promotional examination shall be open, until there are at least two employees in lower grades eligible to apply, to all permanent employees in the department in grades equal to that of the position for which the examination is held and in the next lower grades, as determined by the director, who have been employed in the department in such grades, after certification and in a permanent or temporary status, for at least one year preceding the date of examination; provided, that no such departmental promotional examination shall be open to any employee of a department who has not been employed therein, after certification and in a permanent status, for at least one year next preceding the date of the examination, or who has permanent status, after certification, in a grade higher than that of the position for which the examination is to be held. Any such competitive promotional examination shall be open to all permanent employees of the commonwealth, or of the city, town or district where the promotion is to be made, as the case may be, who, after certification in a permanent status, have been employed for at least the six months next preceding the date of said examination in permanent or temporary status in positions which are in the class or service group of the position for which the examination is to be held, as such class or service group shall have been established in accordance with section forty-five of chapter thirty, or in any other class or service group, as determined by the director, which contains positions having duties, qualifications for, and other significant characteristics similar or functionally related to those of the position for which the examination is to be held, and which are in grades equal to that of the said position and in the next lower grades, as determined by the director.

(2) Departmental promotional examinations which are not made in accordance with clause (1) of this paragraph shall be open to permanent employees in the department (a) who have been employed therein, after certification, whether in a permanent or temporary status, for at least one year preceding the date of examination in a position determined by the director to be directly qualifying for the position for which the examination is held, or (b) who meet such experience or education and training requirements as shall be determined by the director to be qualifying for the position for which the examination is held. Such experience, education or training may have been acquired within or without the department, and shall be creditable only upon presentation of evidence satisfactory to the director that such experience or training of the length, type and quality determined by the director to be appropriate for the classification; provided that no such promotional examination shall be open to any employee of the department who has not been employed therein, after certification and in a permanent status, for at least one year next preceding the date of examination, or to any employee who has permanent status, after certification, in a grade higher than that of the position for which the examination is held. All promotions in the official service of the division of employment security in the department of labor and industries shall be made in accordance with paragraph A or the provisions of this clause. The provisions of this clause at the discretion of the director may be applied to any position in the official service in any other department, and, so far as practicable, to executive office promotional examinations, with the approval of the secretary thereof, and to competitive promotional examinations.

C. In each instance when the appointing authority appoints or promotes, as the case may be, any person other than the person whose name appears highest

on a list certified by the director for a position and such person is willing to accept such appointment or promotion, the appointing authority shall forthwith deliver to the director a written statement of his or its reason for so appointing or promoting the person so appointed or promoted, and no appointment or promotion of any person other than the person whose name appears highest on such list shall become effective until such statement has been received by the director. Every such statement shall be filed in the office of the division and shall be open to public inspection.

D. Notwithstanding any provision of law to the contrary no individual, other than in an emergency as heretofore set forth in this section, shall be appointed, transferred, excepting a transfer to a position with substantially identical authority, duties and responsibility, or promoted to any office or position which is subject to the federal standards for a merit system of personnel administration unless the director has certified, such individual meets the minimum qualifications conformable with applicable federal requirements, which minimum qualifications he is hereby authorized and directed to establish for each such office or position.

All departmental promotional examinations for positions in the department of public works shall be open to eligible employees in said department, as determined by the director, and in the case of promotional qualifying examinations length of service shall be computed on total length of permanent service, as set forth in section fifteen D, regardless of the unit to which assigned.

For positions in the classified labor service, districts established under section three of chapter sixteen shall not be changed except in accordance with section eighteen A of this chapter and certification shall be made in accordance with the provisions of said section.

Requests to make a promotion of a civil service employee to fill a permanent vacancy or a newly created position for which funds have been appropriated or are available on a permanent basis shall state that such vacancy is to be filled on a permanent basis and not on a temporary basis.

SECTION 15A. (Repealed by 1943, c. 523.)

SECTION 15B. (1943, c. 520; 1946, c. 52; 1952, c. 313; 1953, c. 459; 1958, c. 51; 1962, c. 274; 1968, c. 652; 1971, c. 683.) An employee in the classified civil service of a department may, upon requisition made by the appointing officer, be appointed or promoted to a position in the lowest grade, as determined by the director, of the official service of such department upon certification from an eligible list established as a result of an examination open only to permanent employees in the classified civil service of such department who have been employed therein after certification for at least one year.

Notwithstanding the provisions of this section extending eligibility for such an examination to the classified civil service, the director may restrict such eligibility to any group or groups of positions in the labor service if there are sufficient number of employees in such a group or groups to take a competitive examination, as determined by the director. The director may also include in such an examination incumbents of those positions in the official service in said department whom the director determines proper for admission to the examination.

An employee may be promoted to a position in the lowest grade of the official service of the department with the approval of the director, provided such employee passes a qualifying examination, has been employed in the department for at least one year and is the oldest employee, the second oldest employee or the third oldest employee in length of service who is willing to accept such position. The determination as to which employees are willing to accept shall be made only after the posting of a promotional bulletin in accordance with the provisions of section eight, providing that for the purposes of making said determination persons in the official service in said department shall be eligible to respond to the bulletin and those who do respond shall be considered in making the determination.

The provisions of this section may, upon the request of the appointing authority and at the discretion of the director, be applied to a department where the official service is subject to the provisions of this chapter but wherein the labor service is not so subject, in which case the words "classified civil service" shall include persons who have been employed for at least one year in the department in said labor service notwithstanding that they are employed in positions which are not subject to the provisions of this chapter. The seniority date of any person who acquires civil service status under this section shall be computed from the date of permanent appointment after certification by the director for promotion, following his passing such examination.

SECTION 15C. (1945, c. 704; 1946, c. 53; 1950, c. 385; 1953, c. 195; 1965, c. 341; 1968, c. 652; 1972, c. 282.) On or before March first in each year, every appointing officer shall submit to the director in such form as he may require, under the penalties of perjury, a list of officers and employees in his department as of January second in the year in which the list of officers and employees is compiled, who are civil service employees, setting forth the title of the class and grade of the office or position of each such officer and employee and his seniority as provided in section fifteen D.

Every such appointing officer shall cause copies of such lists, signed by him, to be posted forthwith in all areas under the control of such officer where five or more civil service employees start their tour of duty in order that such lists may be inspected on or before May first in the year in which the list of officers and employees is compiled. Such list shall be dated as of the day of posting and shall remain posted for one year from the date of posting.

Any such appointing officer who neglects or wilfully refuses to post a copy of such list shall be punished by a fine of not more than one hundred dollars.

The superior court, upon suit by the attorney general, or upon petition of one or more taxable inhabitants of a city or town, may enforce this section and said section fifteen D.

When used with respect to employees in the labor service of the department of public works, the word "department", as used in this section, shall mean the district established under section eighteen A in which such employees serve.

SECTION 15D.(1945, c. 704; 1947, c. 426; 1949, c. 167; 1952, c. 447*; 1955, c. 40; 1962, c. 510**; 1968, c. 652; 1969, c. 45, 217; 1970, c. 9; 1971, c. 480.) For the purposes of this chapter, seniority of officers and employees in the official or labor service shall mean their ranking based on length of service, computed as provided in this section.

1. Following an original permanent appointment, the length of service of a permanent officer or employee shall be computed from the first date of his employment, including the probationary period served for such employment, other than an appointment on an intermittent or a part-time basis, to the official or labor service in the department in which he serves, regardless of class or grade, unless the continuity of his service has been interrupted by an absence from the payroll of more than six months, in which case the length of his service shall be computed from the date of his restoration to the payroll; but upon continuous service following such an absence for a period of twice the length of the absence,

* Acts of 1952, Chapter 447.

SECTION 2. This act shall not affect the computation of seniority of employees restored to the payroll prior to the effective date of the act, (September 15, 1952) nor shall it apply to one who disrupts the continuity of his service to serve in the armed forces of the United States.

** Acts of 1964, Chapter 188

SECTION 2. The provisions of paragraph 2 of section fifteen D of chapter thirty-one of the General Laws, as amended by section one of this act (St. 1962, c. 510), shall not affect the computation of seniority of employees who were permanently transferred prior to the effective date of this act (August 29, 1962).

the length of his service shall be computed from the date obtained by adding the period of such absence from the payroll to the date of his original appointment. Proof of absence from the payroll shall be evidenced by official payroll records.

2. In the event of a change of service, whether by appointment or promotion, of such an officer or employee, from one department of the commonwealth to another department thereof, from one department to another in the same or another municipality, or from a municipality to the commonwealth, or from the commonwealth to a municipality, the length of his service shall be computed from the date of said change until the completion of one year's service in the position to which he is changed, upon the completion of which the length of his service shall be again computed from the same date from which computed immediately prior to such change. In the event of a change of service by transfer of an officer or employee, with his consent, from one department of the commonwealth to another department thereof, from one department to another in the same or another municipality, or from a municipality to the commonwealth, or from the commonwealth to a municipality, the length of his service shall be computed from the date of said change until the completion of three years' service in the position to which he is changed, upon the completion of which the length of his service shall be again computed from the same date from which computed immediately prior to such change. In the event of a change in service by such a transfer which does not have the consent of the employee, the length of his service shall be computed from the same date from which it was computed immediately prior to such transfer. No appointment, transfer or promotion from a division of a department to another division of the same department shall affect the seniority date of any such employee so appointed, transferred or promoted; provided, that any such employee so appointed shall serve a probationary period in the new division.

3. Upon reinstatement of such an officer or employee after an absence because of injuries received in the performance of duty for which compensation under chapter one hundred and fifty-two was paid, the length of his service shall be computed from the same date from which it was computed immediately prior to such absence and he shall not be deemed by reason of such absence to have become separated from such service, provided that such person has notified the appointing authority not later than six months after the final payment of compensation aforesaid, in writing, that he is ready, willing and able to do his former work, and files with said appointing authority a certificate of a registered physician that he is able to efficiently perform the duties of his position.

4. The length of service of a permanent part-time or permanent intermittent employee shall be computed from the date of his original appointment as such employee, regardless of absences from the payroll which occurred without his volition.

5. Permanent part-time or permanent intermittent employees shall rank below permanent full-time employees in seniority.

* "Absence", as used in this section, shall not include absence because of military service or illness, absence on educational leaves of absences or absence because of abolition of position or after lay-off resulting from lack of work or lack of money.

The word "department", as used in clauses (1) and (2) of this section, shall have the same meaning as in sections one and fifteen C.

SECTION 15E. (1946, c. 540.) Any person who has been injured in the performance of his duties while employed in a provisional capacity in a position in the service of the commonwealth or any city or town and who, because of such

* Acts of 1945, Chapter 704, Section 10, provided that the term "absence", as used in this section, should not include absence on leaves of absence granted during the then states of war between the United States and certain foreign countries for the purpose of permitting service in employment essential to the war effort.

injury, is unable to meet the physical standards as established by the director for the position in which he has been provisionally employed shall not be deemed ineligible thereby to take any examination for permanent employment in any position under this chapter and, if he passes such examination, shall not be deemed ineligible to be permanently employed in any such position; provided, that he meets all other requirements of the civil service law and rules and furnishes proof satisfactory to the director that such injury was incurred in the performance of his duties and that he is unable to meet the physical requirement of the director solely because of such injury; and, provided further, that such injury does not incapacitate him for the performance of his duties.

SECTION 15F. (1951, c. 157; 1958, c. 529; 1967, c. 118; 1968, c. 652; 1970, c. 319; 1971, c. 212.) Any person who is appointed to a permanent position after certification may, upon request of the appointing authority and the approval of the director, be provisionally promoted to a position in the next higher grade in the same department or division of a department, if there is no suitable eligible list from which to certify; or be appointed after certification in accordance with the civil service law and rules to a temporary position in a higher grade. If, however, there is no such employee qualified and willing to accept such a provisional promotion, a provisional promotion to a position in the classified official service without regard to class or grade may be authorized by the director if in his opinion the appointing authority submits sound and sufficient reasons to show that said provisional promotion will be for the public good. If the director has approved the holding of a competitive promotional examination, as provided in paragraph B of section fifteen, he may approve a provisional promotion of a person who is eligible to take said examination, notwithstanding that the promotion may involve a transfer from one department to another. Such provisional promotion or such temporary appointment shall not be deemed to interrupt the serving of the probationary period or the period of eligibility for promotion required by this chapter in the office or position of the lower grade.

SECTION 15G. (1967, c. 780; 1968, c. 652; 1971, c. 195.) Whenever a certification of names of persons eligible for appointment or promotion is made by the director and the eligible list contains the names of three persons willing to accept, selection and appointment shall be made by the appointing authority from the eligible list in accordance with the law and rules. The appointing authority may make a selection and appointment from a certification of less than three at his own discretion. If the appointing authority does not make an appointment from a certification of less than three names, he shall notify the director that it is his intention to leave the position unfilled until such time as an eligible list of at least three persons willing to accept is established, or, if the appointing authority wishes to fill the position by a person whose name does not appear on said eligible list, he shall certify to the director that each person on the list who reported for an employment interview as directed by the director was interviewed and considered for the position. In such case, the appointing authority shall state sound and sufficient reasons, satisfactory to the director, why the certification of less than three names was not adequate to make a proper selection. No provisional appointment or provisional promotion shall be approved or continued following a certification by the director if the list contains the names of three persons eligible and willing to accept. Nothing herein contained shall affect the rights of disabled veterans as provided in section twenty-three.

SECTION 16. No recommendation of an applicant for an office or position under this chapter given by any member of the general court, alderman or councilman, except as to the character or residence of the applicant, shall be received or considered by any person concerned in making the appointment.

SECTION 16A.* (1939, c. 506; 1945, c. 703; 1958, c. 55; 1962, c. 743; 1964, c. 720; 1966, c. 20; 1967, c. 57, 74, 780; 1968, c. 637; 1971, c. 439.) Any person who has been permanently appointed in accordance with the civil service

* See Acts of 1968, Chapter 637, Section 7, on page 78.

law and rules and who has served a probationary period required by section twenty D may, after application in writing to the director by an appointing authority and with the consent of the director, be transferred to another similar position, provided the appointing authority submits sound and sufficient reasons, in the opinion of the director, to show that the transfer will be for the public good and will not impose unreasonable hardship on the employee to be transferred. No position shall be considered similar which is higher in grade or for which there are substantially dissimilar requirements for appointment.

If such transfer shall be to a temporary position, the transfer shall be temporary and for such period of time as the appointing authority shall determine, with the consent of the director and, if the position is in the service of the commonwealth, of the director of personnel and standardization. If such transfer shall be to a permanent position, the transfer shall be permanent or temporary, as the appointing authority shall determine, with the consent of the director; and if temporary, shall be for such period of time as the appointing authority shall determine, with the consent of the director. A temporary transfer shall not affect the seniority date of the employee so transferred and shall not be deemed to interrupt the serving of the period of eligibility for promotion required by this chapter in the office or position from which the employee is transferred.

Nothing herein contained shall affect the rights of disabled veterans as provided in section twenty-three.

Any person aggrieved by any such transfer may appeal to the commission in accordance with the provisions of paragraph (b) of section two.

In case of an emergency where the public safety or health would be seriously impaired by delay in the performance of essential duties, the appointing authority may, in the manner and subject to the conditions specified by the provisions of section fifteen relating to emergency appointments, make an emergency transfer or other assignment of any employee.

Notwithstanding any of the foregoing provisions, any person who has been permanently appointed in accordance with the civil service law and rules may apply in writing to his appointing authority for transfer to another similar position, and said appointing authority, with the consent of the director, may grant such application.

SECTION 16B. (1971, c. 185.) The director, upon request of an appointing authority, may approve a transfer of an employee from a position in the official service to a position in the labor service provided that the employee has been employed on a permanent basis in the official service after certification for at least one year and the appointing authority certifies the employee has the necessary qualifications to fill the position, and provided further that if the labor service position is subject to the provisions of section eight, relative to promotions in the labor service, the appointing authority certifies that he has filed the promotional bulletin provided for in said section and has ascertained from said posting that the person recommended for transfer from the official service is the best qualified of those employees willing to accept the position. The provisions of this section may apply to positions the duties of which are partially in the official service and partially in the labor service and may apply notwithstanding that the person whose transfer has been requested is not on an eligible list for employment in the labor service or is not in a position on said eligible list to be reached in certification.

SECTION 17. (1939, c. 238; 1963, c. 25.) No person habitually using intoxicating liquors to excess shall be appointed, employed or retained in any position to which this chapter applies, nor shall any person be appointed or employed in any such position within one year after his conviction of any crime against the laws of the commonwealth, other than a rule, regulation, order, ordinance or by-law regulating the parking of motor vehicles established by any city or town or by any commission or body empowered by law to make such rules or regulations; provided, that the director may in his discretion authorize the appointment

or employment within said year, of a person convicted of any of the following offences: — (1) a violation of any rule or regulation, other than one relating to parking, made under section two of chapter eighty-five or under section thirty-one of chapter ninety; (2) a violation of any provision of said chapter ninety relating to motor vehicles which constitutes a misdemeanor, other than one relating to parking; (3) any other offence for which the sole punishment imposed was (a) a fine of less than one hundred dollars, (b) a sentence to imprisonment in a jail or house of correction for less than six months, with such a fine or without any fine, or (c) a sentence to any other penal institution under which the actual time served was less than six months, with such a fine or without any fine.*

SECTION 18. (1939, c. 238; 1945, c. 703; 1947, c. 22; 1967, c. 98; 1971, c. 179.) Every appointing authority shall report in writing forthwith to the director any appointment or employment, promotion, demotion, transfer, change in duties or pay, reinstatement, change in name, discharge, suspension, lay-off, abolition of position, absence on account of illness or injury for over one month, unauthorized absence, leave of absence on account of military service, leave of absence for over one month, termination of temporary employment, resignation, retirement, pension, or death of any person within the official or labor service. Such report shall contain the service record of the employee in such form and detail as the director may designate.

Whenever an appointing authority reports an unauthorized absence to the director he shall mail a written statement to the person named in the report. The written statement shall inform said person that he is considered to have permanently and voluntarily separated himself from the service and that a report has been so filed with the director. A copy of this written statement shall be filed with said report filed with the director. The appointing authority may, within fourteen days of the written statement, restore said person to the office or position formerly occupied or may approve the absence as provided in section forty-six E if, within said fourteen days, said person makes a written request for approval of his absence to the appointing authority setting forth an explanation of the absence satisfactory to said appointing authority; in which case, the appointing authority shall forthwith inform the director of his action.

SECTION 18A. (1941, c. 627; 1945, c. 389.) Persons certified to fill positions in the labor service of the state department of public works shall be certified according to districts, to be established by the state department of public works. Districts so established shall not be changed unless written notice of the change, stating the reasons therefor, is sent to the director at least six months prior to the effective date of such change.

SECTION 19. (1971, c. 197.) Except as otherwise provided by law, in all positions, employments and work in any branch of the service of the commonwealth, or of any county, city, town or district therein, persons who are domiciled in the commonwealth shall be given preference; provided, when the director waives domiciliary requirements in accordance with the civil service rules or the provisions of section eight B, any person who does not have a domicile in the commonwealth and who otherwise qualifies shall be placed on the eligible list in accordance with the civil service law and rules.

SECTION 19A. (1939, c. 238; 1941, c. 38; 1943, c. 530; 1949, c. 55.) In each city in which there has been established a reserve force of firemen in its fire department under the provisions of sections fifty-nine B to fifty-nine D, inclusive, of chapter forty-eight, and in each city and town which has a reserve force of firemen under authority of special law, appointments to the regular force shall be made by the appointing authority upon certification by the director from the list of members of the reserve force of firemen, in accordance with the rules of the commission, except that the basis of certification shall be the order of appoint-

*See General Laws, Chapter 22, Section 6A, on page 55; Chapter 41, Section 96A, on page 58; Chapter 125, Section 9, on page 64.

ment to the reserve force, or, if not ascertainable, the order of the respective ratings of such members obtained in the examination upon which the list of eligibles for appointment to such reserve force was based. No person who has passed his fiftieth birthday shall be appointed from such a reserve force to such a regular force. The provisions of this section shall not be deemed to prevent the appointment to the regular force of a city or town of a call fireman who, in the case of a city, has been a call member therein for more than five years prior to June fifteenth, nineteen hundred and forty-three, and, in the case of a town, has been a call member therein for more than five years prior to such appointment to the regular force.

SECTION 19B. (1949, c. 288; 1966, c. 75; 1969, c. 53.) In each city and town having fire fighters subject to this chapter and classified as intermittent fire fighters, appointments to the regular force shall be made by the appointing authority upon certification by the director from the list of the intermittent fire fighters of such city or town, except that the basis of certification shall be the order of appointment as such intermittent fire fighters, or, if not ascertainable, the order of the respective ratings of such intermittent fire fighters obtained in the examination upon which the list of eligibles for appointment as such fire fighters was based. No intermittent fire fighter who has passed his fiftieth birthday shall be appointed under this section to the regular fire force of such city or town. No such intermittent fire fighter who, having been duly certified, three times refuses permanent appointment to the regular force shall be eligible for further certification. Notwithstanding the provisions of sections forty-three and forty-five or any other law, any member of an intermittent force refusing to accept permanent appointment to the regular force on the occasion of three separate certifications shall thereupon cease to be a member of the intermittent fire force.* The appointing officer shall forward to the director a notification of termination of the service of such intermittent fire fighter setting forth the occasion of each refusal and the date upon which the services of such fire fighter ceased. The provisions of this section shall not be deemed to prevent the appointment to the regular force of a city or town of a call fire fighter under the provisions of any general or special law.

SECTION 19C. (1968, c. 263; 1971, c. 184.) The director may hold examinations for appointment to fire forces in the cities and towns which are subject to the provisions of this chapter and which accept this section on a state-wide basis or within a reasonable area based on proximity to any city or town. An appointing authority in a fire department may file with the director a request that such a reasonable area be established setting forth in his request the names of the municipalities which he proposes should be included within said area. If the director approves the establishment of such an area, no applicant for appointment to the fire force of a city or town shall be required by rule, or otherwise, to be a resident of such city or town at the time of filing his application for examination; provided, however, that if any person has resided in a city or town for one year immediately prior to filing his application for examination and has the same standing as any person who has not so resided in such city or town, the director of civil service, when establishing the list of eligible applicants, shall place the name of the person so residing ahead of the name of the person not so residing; provided, further, that notwithstanding the provisions of any general or special law to the contrary, any person who receives an appointment to the fire force of a city or town shall within six months after his appointment establish his residence within such city or town or at some other place in the commonwealth within ten miles of the perimeter of such city or town. The commission may by rule require that any such applicant shall have resided in the commonwealth for one year prior to filing such application.

*Section 2 of Chapter 75 of the Acts of 1966 provides that certification of intermittent members for promotion to the regular force shall take effect on June 1, 1966.

SECTION 20. (1939, c. 238, 419; 1945, c. 704; 1947, c. 354; 1951, c. 279; 1959, c. 115; 1963, c. 150; 1964, c. 40; 1969, c. 196; 1971, c. 183.) Appointments and promotions in such police and fire forces of cities and towns as are within the official service, in the detective force of the state department of public safety, in the capitol police force and in the police force of the metropolitan district commission shall be made only by competitive examination, except as otherwise provided in this chapter. No person shall be eligible to take an examination for appointment as a detective in the division of state police who on the date of such examination is over forty-five years of age. No promotional examination shall be held for fewer than four examinees unless the examination is open to all the lower grades under provisions of this section. Eligibility for entrance to a promotional examination for any grade of service shall be limited to permanent employees in the next lower grade, but if the number of persons in such lower grade applying, or if the number of applicants presenting themselves for examination, is not sufficient to hold an examination, the examination shall be thrown open to the next lower grades in succession until at least the necessary number of persons have applied and have presented themselves for examination; provided, that such persons shall not be eligible to take any such examination for the first grade above the lowest grade in police and fire departments in cities and towns with a population in excess of fifty thousand, in the detective force of the state department of public safety, in the capitol police force and in the police force of the metropolitan district commission unless they have been employed after certification in the lower grade for at least three years and for all other grades unless they have been employed after certification in the lower grade or grades admitted to the examination for at least one year. In cities and towns with a population of fifty thousand or under, such persons shall not be eligible to take any such examination unless they have been employed after certification in the lower grade or grades admitted to the examination for at least one year.

The terms "lowest grade" or "lower grade" as applied in this section to police and fire forces shall include only full-time members of the regular force and shall not include reserve, intermittent or call members; provided, however, if the appointing authority of any such force certifies that there is not a sufficient number of members of the regular force to allow for adequate competition the director may, if he is satisfied that the circumstances warrant it, open the examination to reserve, intermittent or call members, as the case may be. The director may upon request of the appointing authority in computing the length of service required for eligibility for the examination for the first grade above the lowest grade include service as a reserve, intermittent or call member, provided the appointing authority submits a statement based on the official payroll records proving that such service has actually been performed. For the purposes of this section two hundred and fifty days, or the equivalent thereof, of reserve, intermittent or call service shall be equivalent to one year of service on a full-time basis in such regular force.

Promotions to fill positions in police or fire departments to all grades of service shall be made on a full-time basis and no promotions on a so-called permanent intermittent basis shall be made. No examination shall be required for promotion of call men within the call fire forces of any city or town which are within the official service.

No eligible list shall be used for appointment or promotion to any office or position under this section unless such office or position is included in the examination announcement as one which will be filled from the eligible list established as the result of the examination.

SECTION 20A. (1939, c. 238; 1941, c. 39; 1952, c. 167; 1953, c. 255; 1954, c. 136.) In each city and town subject to section twenty in which there has been established a reserve police force or a reserve fire force, appointments to the regular police force or the regular fire force shall be made by the appointing authority upon certification by the director from the list of members of the reserve police force or the reserve fire force, as the case may be, in accordance with the

rules of the commission, except that the basis of certification shall be the order of appointment to such reserve force, or, if not ascertainable, the order of the respective ratings of such members obtained in the examination upon which the list of eligibles for appointment to such reserve force was based. No request of a member of the reserve police force or the reserve fire force that he be not certified in any instance shall be granted by the director. No person who has passed his fiftieth birthday shall be appointed from such a reserve force to such a regular force. No member of a reserve police force who, after June first, nineteen hundred and fifty-two, and no member of a reserve fire force who, after June first, nineteen hundred and fifty-three, having been duly certified, three times refuses permanent appointment to the regular force, shall be eligible for further certification. Notwithstanding the provisions of sections forty-three and forty-five or any other law, members of such a reserve force, except those members serving in the military or naval service at the time of civil service certification, refusing to accept permanent appointment to the regular force on the occasion of three separate certifications after said June first shall thereupon cease to be a member of the reserve police force or the reserve fire force, as the case may be. The appointing officer shall forward to the director a notification of the termination of the service of such reserve officer or fire fighter, setting forth the occasion of each refusal and the date upon which the services of such officer or fire fighter ceased.

SECTION 20B. (Repealed by 1939, c. 441.)

SECTION 20C. (1941, c. 621; 1952, c. 167; 1954, c. 136; 1969, c. 53.) In each city and town having police officers subject to this chapter and classified as intermittent police officers, appointments to the regular force shall be made by the appointing authority upon certification by the director from the list of members of the intermittent force of such city or town, except that the basis of certification shall be the order of appointment as such intermittent police officers, or, if not ascertainable, the order of the respective ratings of such intermittent police officers obtained in the examination upon which the list of eligibles for appointment as such officers was based, and no request of a member of the intermittent police force that he be not certified in any instance shall be granted by the director. No intermittent police officer who has passed his fiftieth birthday shall be appointed under this section to the regular police force of such city or town, and no such intermittent police officer who, after June first, nineteen hundred and fifty-two, having been duly certified, three times refuses permanent appointment to the regular force shall be eligible for further certification. Notwithstanding the provisions of sections forty-three and forty-five or any other law, members of an intermittent force refusing to accept permanent appointment to the regular force on the occasion of three separate certifications after said June first shall thereupon cease to be a member of the intermittent police force. The appointing officer shall forward to the director a notification of termination of the service of such intermittent officer setting forth the occasion of each refusal and the date upon which the services of such officer ceased.

SECTION 20D. (1945, c. 703; 1961, c. 255; 1968, c. 93, 506; 1970, c. 8; 1971, c. 182.) Except as otherwise expressly provided in this chapter or in section thirty-six of chapter forty-eight, no person shall be regarded as holding office or employment on a full-time basis until he has been appointed to a permanent, full-time position in the official or labor service and has actually performed the duties of the office or position thereof for a probationary period of six months; provided, however, in the case of a person appointed as a regular police officer in any city or town, the metropolitan district police force, or the Massachusetts Bay Transportation Authority police force or as a capitol police officer, the probationary period shall be nine months.* There shall be no increase in pay or change in the duties of any such office or position during such a period without the approval of the director. If any such increase in pay or change in duties is

*Probationary period for Correction Officer in the State Department of Correction - nine months. See Section 9 of Chapter 125, on page 64.

made during such a period without such approval, the director may cancel and declare void the certification under which the appointment was made, and thereupon the employment of the person so appointed shall cease.

If the conduct or capacity of a person serving a probationary period under an appointment in the official service or labor service, or the character or quality of the work performed by him, is not satisfactory to the appointing authority, he may, at any time after such person has served thirty days and prior to the end of such probationary period, give such person a written notice to that effect, stating in detail the particulars wherein his conduct or capacity or the character or quality of his work is not satisfactory, whereupon his service shall terminate. The appointing authority shall at the same time send a copy of such notice to the director. In default of such a notice, the appointment of such person shall become permanent upon the termination of such period; provided, however, that the director, with the approval of the commission, may establish procedures assuring the evaluation by appointing authorities of the performance of police officers during such probationary period.

Persons appointed to a permanent office or position which is less than full-time, including appointments on a reserve, intermittent, call, recurrent or part-time basis, shall be deemed to be the holders of such office or position on the basis of the type of such appointment approved by the director and shall not be discharged or removed except as hereinafter provided. Each appointing authority having any such an office or position under his control shall employ such persons according to a fair and equitable arrangement which shall provide all such persons with an equal opportunity for employment. If any such person refuses to accept employment which is regularly recurrent or seasonal at stated periods, or on three separate occasions refuses to accept employment under the conditions of his appointment when said appointment calls for employment if, as and when needed, however entitled, without submitting to the appointing authority in writing satisfactory reason for such refusal, notwithstanding the provisions of sections forty-three and forty-five, the services and tenure of such person shall thereupon cease. The appointing authority shall give such a person a written notice setting forth the occasion of such refusal or refusals, as the case may be, and the date upon which the service of said person ceased and at the same time shall forward a copy of such notice to the director.

The provisions of this section, relative to the termination of service during a probationary period because the conduct or capacity of such a person or the character or quality of his work was not satisfactory, shall apply provided the person has been assigned to employment for a sufficient amount of time to provide a fair and adequate test, including employment for at least thirty days, or the equivalent thereof, which need not be consecutive. If a person has not been employed by the appointing authority for thirty days, or the equivalent thereof, during the first eighteen months following his permanent appointment to office or employment which is less than full-time, in default of the thirty day trial period of actual employment, such appointment of the person shall become permanent upon the termination of said eighteen months.

If a person is unable to work because of illness during the serving of his probationary period, the appointing authority shall have discretionary authority to suspend the serving of the probationary period, provided that the person has served an adequate amount of time to satisfy the appointing authority that his services should be retained. Each person so absent shall upon resuming employment be required to complete service equivalent to a full probationary period.

If a person at the time of his appointment or during the serving of his probationary period is not actually employed because of educational leave, he shall not be regarded as holding office or employment until he has served a full probationary period or the remainder of it, as the case may be, following the termination of said educational leave and his commencing of or return to employment.

VETERANS' PREFERENCE.

SECTION 21. (1939, c. 238; 1943, c. 194, 469; 1946, c. 216; 1950, c. 289; 1951, c. 663; 1954, c. 627*; 1956, c. 248, 249; 1972, c. 98.) The word "veteran" as used in this chapter shall mean: any citizen who —

(a)** Is a veteran as defined in clause Forty-third of section seven of chapter four or (b) meets all the requirements of said clause Forty-third except that instead of performing wartime service as so defined he has been awarded one of the campaign badges enumerated in this section or has been awarded the congressional medal of honor.

"Campaign badges" shall include the following and no other: —

Indian Campaign, Mexican Service, Mexican Border Service, Army of Cuban Occupation, Army of Puerto Rican Occupation, Nicaraguan Campaign nineteen hundred and twelve, Haitian Campaign nineteen hundred and fifteen, or nineteen hundred and nineteen and nineteen hundred and twenty, Dominican Campaign, Second Nicaraguan Campaign, Yangtze Service, Army of Occupation of Germany, China Service, Navy Occupation Service, Army of Occupation, or Medal for Humane Action.

"Wartime service" as used in this chapter shall, in addition to the definition contained in clause Forty-third of section seven of chapter four, include active service in the armed forces of the United States in any campaign for which such badge was awarded.

Any person eligible for a medal or badge as defined in this section and who presents proof of such eligibility satisfactory to the director, shall be deemed to have been awarded such medal or badge.

SECTION 21A. (1954, c. 688; 1956, c. 702.) For the purpose of this chapter only, the word "veteran" shall include any person who meets all the requirements of section twenty-one except that instead of performing ninety days' active service, including ten days' wartime service as so defined, he has performed active service in the armed forces of the United States at any time between April sixth, nineteen hundred and seventeen and November eleventh, nineteen hundred and eighteen, inclusive, or any person with active service in the armed forces at any time between September sixteenth, nineteen hundred and forty and June ninth, nineteen hundred and fifty-four, inclusive, who took an examination or filed an application on or before June ninth, nineteen hundred and fifty-four or who was on an existing civil service eligible list on said date.

SECTION 22. (1939, c. 238; 1946, c. 345; 1954, c. 627.) A person who has received a medal of honor as provided in section twenty-one may apply to the director for appointment or employment in the classified civil service without examination. In such application, he shall state on oath the facts required by the rules. Age, loss of limb or other disability which does not in fact incapacitate shall not disqualify him for appointment or employment under this section. Appointing officers may make requisition for the names of any or all such veterans and appoint or employ any of them.

A person who has received a distinguished service cross or navy cross may, upon the recommendation of the director and with the approval of the commission, be appointed under the same conditions as are provided in this section in the case of a person who has received a medal of honor.

SECTION 22A. (1946, c. 221; 1947, c. 287.) Any veteran who will have attained the age of twenty-one within six months of the date of any scheduled examination for police or fire services shall not be deemed ineligible for examination and appointment because of established minimum age requirements to take such examination; provided that he meets all other pertinent requirements of the civil service laws and rules.

*Chapter 708, Acts of 1955 provides that Chapter 627 of the Acts of 1954 shall not affect adversely any rights, benefits, or privileges, of any person in the employ of the commonwealth or any political subdivision thereof, immediately prior to the effective date of Chapter 627, Acts of 1954, (June 10, 1954) to receive such rights, benefits or privileges.

** See General Laws, Chapter 4, Section 7, clause Forty-third, on page 53.

SECTION 23. (1939, c. 238; 1949, c. 642; 1954, c. 627; 1971, c. 219, 1051.) The names of persons who pass examinations for appointment to any position classified under the civil service shall be placed upon the eligible lists in the following order: —

(1) Disabled veterans as defined in section twenty-three A, in the order of their respective standing;* (2) veterans in the order of their respective standing; (3) persons described in section twenty-three B in the order of their respective standing; (4) other applicants in the order of their respective standing. Upon receipt of a requisition, names shall be certified from such lists according to the method of certification prescribed by the civil service rules. A disabled veteran shall be retained in employment in preference to all other persons, including veterans.

SECTION 23A. (1954, c. 627; 1956, c. 430; 1958, c. 69; 1971, c. 1051.) "Disabled veteran," as used in this chapter, shall mean any veteran, as defined in section twenty-one or twenty-one A, who has a continuing disability at the time of application for appointment and who (1) shall present proof satisfactory to the director that such disability is a service-incurred disability of not less than ten per cent based on wartime service for which he is receiving compensation, or is entitled to receive compensation for not less than ten per cent disability based on wartime service from the Veterans' Administration; or who shall present proof satisfactory to the director that such disability is a service-incurred disability based on wartime service, or for which he is receiving or is entitled to receive a statutory award from the Veterans' Administration; or who (2) has been retired by the armed forces for such permanent physical disability, incurred by wartime service for which he is receiving retirement allowance or is entitled to receive retirement allowance for not less than ten per cent disability based on wartime service from any branch of the armed forces. The director may require any such veteran to present a certificate of a physician, approved by the director, that his disability is not such as to incapacitate him from the performance of the duties of the position to which he is eligible. The cost of a physical examination of such veteran for the purposes of obtaining said certificate shall be borne by the commonwealth.

The term "wartime service" as used in this section and in sections twenty-three B and twenty-four shall also include service in the armed forces of the United States between January first, nineteen hundred and forty-seven and June twenty-fourth, nineteen hundred and fifty.

SECTION 23B. (1954, c. 627; 1956, c. 430.) The widow or widowed mother of a veteran who was killed in action or died from service-connected disability incurred in wartime service, upon presenting proof from official sources, of such facts, satisfactory to the director, and that she has not remarried, shall be entitled to the preference provided under section twenty-three.

SECTION 23C. (1971, c. 346; 1972, c. 380.) Notwithstanding the provisions of section twenty-three or the provisions of any other law or rule to the contrary, any regular police officer who has served for twenty-five years and who passes an examination for promotion to the grade of sergeant or higher, and any regular fire fighter who has served for twenty-five years and who passes an examination for promotion to the grade of lieutenant or higher, shall have equal preference with veterans in being placed upon the eligible list for said promotion.

SECTION 24. (1939, c. 238; 1949, c. 642; 1956, c. 247.) A veteran who registers for employment in the labor service of the commonwealth and of the cities and towns thereof, if found qualified, shall be placed on the eligible list for the class for which he registers ahead of all other applicants. The names of eligible veterans shall be certified for labor service in preference to other persons eligible according to the method of certification prescribed by the civil service rules applying to civilians. If, however, the appointing officer certifies in the requisition for laborers that the work to be performed requires young and vigorous

*For placing names of certain blind persons on list, see Rule 11, Section 5 on page 86.

men, and, on investigation, the director is satisfied that such certificate is true, he may fix a limit of age and certify only those whose age falls within such limit. The names of widows or widowed mothers of veterans who were killed in action or died from service-connected disability incurred in wartime service, upon presenting proof from official sources, of such facts, satisfactory to the director, and that she has not remarried, shall be placed on the eligible list for the class for which they register above the names of all other applicants but below the names of veterans.

SECTION 25. (1939, c. 238; 1946, c. 145; 1948, c. 407; 1969, c. 502.) Whenever a provisional appointment is authorized by the director under section fifteen, no person other than a veteran shall be appointed unless the appointing authority cannot find a veteran qualified for the position who will accept and so certifies to the director. Before certifying that he is unable to find a veteran who is qualified for, and will accept, the position, the appointing authority shall obtain from the director a list of all veterans who have filed, within the preceding year, applications for the kind of work called for by such provisional appointment, and shall notify by mail each of said veterans.

SECTION 26. (Repealed by 1925, c. 220.)

SECTION 27. (Repealed by 1971, c. 181.)*

SECTION 28. (Repealed by 1971, c. 181.)*

GENERAL POWERS.

SECTION 29. (1939, c. 238; 1945, c. 725; 1948, c. 138; 1967, c. 459; 1968, c. 2; 1971, c. 234.) Records of the proceedings of the commission and of the director, all recommendations of applicants, and all applications shall be kept on file and shall be open to public inspection under the rules of the commission. Each application, recommendation and experience sheet shall be preserved for a period of at least two years, but may be destroyed thereafter. Examination papers may be destroyed as the director determines, but shall be preserved during the period in which any requests for review of markings in an examination or appeals thereon, made in accordance with the provisions of section twelve A, are pending. The appointing officer may inspect the application, recommendation and experience sheet of the person whose name is certified to him and may require such person to appear before him and make such inquiries of him as he may deem proper. An applicant's examination paper may be inspected only by the applicant or his duly authorized representative upon presentation of written permission and only on the condition that such applicant and his duly authorized representative shall agree not to publish, disclose or otherwise divulge, orally or in writing, the questions or answers therein contained, except as hereinafter provided. Such authorized representative may inspect said papers only during the period during which a request for a review of markings of the examination papers may be made in accordance with the provisions of section twelve A, provided that no authorized representative may inspect examination papers for any examination which is not subject to the provisions of said section twelve A. No examination question and no answer thereto shall be quoted by any person except in an appeal to the commission from a decision of the director; provided, however, that this section shall not prevent applicants from discussing the desirability of filing with the director a request for review, the results of such review, or a subsequent appeal, if such discussions are in direct connection with filing a request for review or subsequent action, and are limited to applicants who have taken the same examination. No examination question shall be copied unless it be one which the applicant answered in the examination and on which he suffered a loss of credit because his answer was rated as erroneous or insufficient, in whole or in part, and on the marking of which he files with the director a request for review under section twelve A, in which case the applicant's answer to such

* See Acts of 1941, Chapter 708, on page 70.

question and, if a choice of answers was given to such question, the choice rated by the applicant as the correct answer may also be copied.

SECTION 30. (Repealed by 1945, c. 725.)

SECTION 31. (1939, c. 238, 422; 1959, c. 319; 1965, c. 32.) The officer or board having power in any city or town subject to this chapter to appoint or employ persons in any department thereof to which this chapter and the rules thereunder apply shall, within seven days after the receipt of a written request therefor made by the commission or the director, make and file with said commission or the director and with the auditor or officer whose duty it is to audit the accounts of such appointing or employing officer or board, a report containing the names of all persons who have been appointed or employed by such appointing or employing officer or board or who have received pay or rendered bills for services or labor rendered or performed during the calendar month next preceding the date of the filing of such request. Said report shall be in the form prescribed by the commission or the director, shall be made on oath, and shall contain the following information: first, the full name of person appointed or employed or rendering bill for services or labor; second, title of the office or position authorized by the division of civil service wherever applicable, otherwise title authorized by the appointing authority; third, his salary, wages or other compensation; and fourth, dates of employment; provided, that such appointing or employing officer or board shall not be required to file in any month more than one such report with the commission or the director and one with the auditor or auditing officer. The reports in the office of the auditor or auditing officer shall be open to public inspection.

The supreme judicial court by mandamus or other appropriate remedy in law or in equity, upon suit or petition of the commission or of the director, may compel any such appointing or employing officer or board in any such city or town to comply with this section.

Every appointing or employing officer, or, in the case of a board, every member thereof, who wilfully refuses to comply with this section shall be punished by a fine of not less than twenty-five nor more than one hundred dollars.

SECTION 31A. (1939, c. 422.) Every state officer, department, board or commission or head thereof having power to appoint or employ persons to which this chapter and the rules thereunder apply shall, within seven days after the receipt of a written request therefor made by the commission or the director, make and file with the commission or the director and with the state auditor a report containing the names of all persons who have been appointed or employed by such officer, department, board or commission who have received pay or rendered bills for services or labor rendered or performed during the calendar month next preceding the date of the filing of such request. Said reports shall be made on oath and shall contain the following information: first, name of person appointed or employed, or rendering bill for services or labor; second, nature and brief description of the services or labor which such person has actually rendered or performed during said month; third, title of the office or employment of such person as stated in the payrolls of the officer, department, board or commission; fourth, the regular salary or wages of the appointee or employee; fifth, all other payments of any kind made to the appointee during said month; provided, that such appointing or employing officer, department, board or commission shall not be required to file in any month more than one such report with the commission or the director and one with the state auditor. The reports in the office of the state auditor and of the commission and of the director shall be open to public inspection.

The supreme judicial court by mandamus or other appropriate remedy in law or in equity, upon suit or petition of the commission or the director, may compel any such appointing or employing officer, board or commission to comply with this section.

Every appointing or employing officer, or, in the case of a board or commis-

sion, every member thereof, who wilfully refuses to comply with this section shall be punished by a fine of not less than twenty-five nor more than one hundred dollars.

SECTION 31B. (1941, c. 165; 1967, c. 63; 1969, c. 4.) The director shall prepare and keep on file in his office rosters of all positions in the classified civil service of the commonwealth, and of each city* and town, subject to this chapter, and of the persons whose employment in such positions, respectively, whether permanent or temporary, is legal, and each appointing authority shall be given a copy of the roster for his department. The director shall file a copy of such roster for the commonwealth with the comptroller, and shall file a copy of such roster for each such city or town with the treasurer or other officer thereof whose duty it is to pay the salary or compensation of persons in the service of such city or town, and with the auditor or other officer thereof whose duty it is to authorize the drawing, signing or issuing of warrants for such payment. Whenever any person is legally employed in or appointed to a position in the classified civil service, the director shall make on the proper roster, or append thereto, a record of such employment, appointment or change and shall give notice thereof to each officer with whom a copy of such roster is hereby required to be filed, who shall make on his copy of said roster, or append thereto, a corresponding record. Whenever a change occurs in the status of any person by virtue of suspension, discharge, resignation or any other separation from the classified civil service, the appointing authority, in addition to the report to the director required by section eighteen, shall give notice thereof to each officer with whom a copy of such roster is hereby required to be filed by the director under this section, and such officer shall make on his copy of said roster, or append thereto, a corresponding record. The state treasurer, city or town treasurer, or other disbursing officer of the commonwealth or of a city or town subject to this chapter, shall not pay any salary or compensation for service rendered in any position in the classified civil service to any person whose name does not appear on such roster, as amended from time to time, as the holder of such position, whether such payment is made by means of pay roll or bill, or in any other manner, and the comptroller, or the auditor or other accounting officer of such a city or town, shall not authorize the drawing, signing or issuing of a warrant for such payment, until the legality of the employment or appointment of such person is duly established. The state treasurer or other disbursing officer may accept the certification by the comptroller that the name of any person appears on the roster of the classified civil service of the commonwealth as evidence thereof. Any officer who wilfully violates any provision of this section shall be punished by a fine of not less than twenty-five nor more than one hundred dollars.

SECTION 32. (1939, c. 238, 420; 1967, c. 780; 1969, c. 24.) In any hearing, investigation or inquiry held in accordance with the provisions of this chapter, the commission or director or any authorized representatives thereof may summon witnesses, administer oaths and take testimony. Fees for such witnesses shall be the same as for witnesses before the courts in civil actions, and shall be paid from the appropriation for incidental expenses. Subpoenas may be issued at the instance of a complainant, respondent or any other party to any proceeding before the commission under such rules as the commission may establish, in which case the cost of service and the fees of the witnesses shall be borne by the party at whose instance the witness is summoned, and such fees shall be paid to the witnesses as provided in the case of witnesses before the superior court.

SECTION 32A. (Repealed by 1945, c. 703.)

INVESTIGATIONS.

SECTION 33. (1939, c. 238, 420.) On request of any appointing power in respect to officers or employees by it appointed, the commission or director shall,

*ACTS OF 1941, CHAPTER 165, SECTION 2, PROVIDES AS TO BOSTON:—Nothing in this act shall affect chapter two hundred and ten of the acts of nineteen hundred and eight, as amended, relative to pay rolls, bills and certain accounts for salary or compensation of persons in the employment of the city of Boston.

and the commission or director may at any time without such request, inquire into the efficiency and conduct of any officer or employee in the classified civil service, and may recommend to the appointing power the removal of any such officer or employee, or make other appropriate recommendations.

SECTION 34. (1939, c. 238, 420.) The commission or director may investigate in whole or in part the classified civil service, and the work, duties and compensation of the officers and employees therein, and the number employed, and the grades, titles, ratings and methods of promotion established, and may report thereon to the governor or to the general court.

SECTION 35. (Repealed by 1941, c. 559.)

MISCELLANEOUS PROVISIONS.

SECTION 36. (1939, c. 238; 1945, c. 701; 1971, c. 188.) No person not a citizen of the United States shall be employed provisionally in any position subject to civil service if there are citizens available therefor.

SECTION 37. (Repealed by 1971, c. 188.)

SECTION 38. (1939, c. 238, 422.) If, in the opinion of the director, a person is appointed or employed in the classified public service in violation of any provision of this chapter or of any rule or regulation made thereunder, the commission or the director shall, after notice in writing mailed to the appointing or employing officer, department, board or commission, and to such person, notify in writing the treasurer, auditor or other officer whose duty it is to pay the salary or compensation of such person, or to authorize the drawing, signing or issuing of any warrant therefor; and the payment of any salary or compensation to such person shall cease at the expiration of one week after the mailing of the notice to such treasurer, auditor or other officer, and no such officer shall pay any salary or compensation to such person, or draw, sign or issue, or authorize the drawing, signing or issuing, of any warrant therefor, until the legality of such appointment or employment is duly established.

SECTION 39. (1939, c. 238.) Any person found by the director to be illegally appointed or employed may file a petition for writ of mandamus in the supreme judicial or superior court to compel the director to authorize such appointment or employment, and the payment of compensation or salary therefor. At any time after the petition is filed the court, if of opinion that there is reasonable doubt whether the appointment or employment of such person is in violation of the civil service law or rules, may order that the compensation accruing to such person for services actually rendered shall be paid to him until otherwise ordered by said court.

SECTION 40. (Repealed by 1945, c. 703.)

SECTION 41. (Repealed by 1970, c. 141.)

SECTION 42. (1939, c. 238; 1960, c. 722; 1964, c. 364; 1970, c. 720.) Appointments of treasurers*, stewards, business managers, adjutants and assistant adjutants in the institutional service of the commonwealth may be made in accordance with the provisions of this chapter, or, at the discretion of the appointing authority, as appointments exempt from the provisions of this chapter.

If an appointing authority proposes to fill a vacancy in the office of treasurer, steward, business manager, adjutant or assistant adjutant at any institution of the commonwealth, as an appointment exempt from the provisions of this chapter, he shall certify to the director the name of a person believed to be competent by reason of training and experience to fill the vacancy and shall give the director

*For the appointment of Assistant Treasurer see General Laws, Chapter 123, Section 28 (Department of Mental Health) on page 64, and Chapter 6, Section 71 (Soldiers' Home in Holyoke) on page 55.

such information concerning the proposed appointee as the director may require. The director shall immediately make a careful inquiry into the qualifications of the proposed appointee and if he is satisfied that the appointee is a competent person, with the requisite qualifications, he shall notify the appointing authority that the appointment is approved. Upon receipt of such notice the appointment shall take effect, subject to the provisions of law relating to the filing of bonds by the treasurers of institutions. If the director does not, within thirty days after the appointee is certified to him, notify the appointing authority of his approval, the appointment shall be void. No person appointed under this section in accordance with the appointing authority's discretionary powers to exempt the appointment from the provisions of this chapter shall be classified under the civil service law and rules, and if said person has permanent civil service status in a position in the department at the time of such exempt appointment, he shall be notified in writing by the appointing authority that his civil service status is terminated. A copy of such notification shall be filed with the director.*

SECTION 42A. (Repealed by 1945, c. 667.)

SECTION 42B. (Repealed by 1945, c. 667.)

SECTION 43.** (1945, c. 667; 1946, c. 379; 1947, c. 373; 1948, c. 240; 1949, c. 170, 429; 1955, c. 407; 1956, c. 629; 1957, c. 432, 569; 1959, c. 569; 1962, c. 205, 776; 1963, c. 26, 801; 1964, c. 275; 1965, c. 33, 281, 361; 1968, c. 637; 1969, c. 766; 1970, c. 72; 1971, c. 179.)

(a) Every person holding office or employment under permanent appointment in the official or labor service of the commonwealth, or of any county, city or town thereof, shall have unlimited tenure of office or employment, subject to the provisions of this chapter and the rules made thereunder. He shall not be discharged, removed, suspended for a period exceeding five days, laid off, transferred from such office or employment without his consent in writing if he held office or employment prior to October fourteen, nineteen hundred and sixty-eight, lowered in rank or compensation without his consent in writing, nor shall his office or position be abolished, except for just cause and for reasons specifically given him in writing. Before any action affecting employment or compensation referred to in the preceding sentence is taken, the officer or employee shall be given a written statement of the specific reason or reasons for the contemplated action, together with a copy of sections forty-three, forty-five and forty-six A, and shall be given a full hearing before the appointing authority on the specific reason or reasons given, of which hearing he shall have at least three days' written notice from the appointing authority, except in cases of separation from service in the official or labor service, resulting from lack of work or lack of money or from abolition of positions, in which case at least seven days' written notice of hearing shall be given by the appointing authority. Within two days after completion of said hearing, the appointing authority shall give to the employee affected a written notice of his decision, stating fully and specifically the reasons therefor.

(b) If within five days after receiving written notice of the decision of the appointing authority the person so discharged, removed, suspended, laid off, transferred, lowered in rank or compensation, or whose office or position was abolished, shall so request in writing, he shall be given a hearing before a member of the commission or some disinterested person designated by the chairman of the commission. Said hearing shall be commenced in not less than three nor more than ten days, and shall be completed within thirty days, after the filing of such request, unless, in either case, both parties thereto shall otherwise agree in writing, or unless a continuance is deemed necessary or advisable in the discretion of the hearing officer, and the findings shall be reported forthwith to the

* See Acts of 1970, Chapter 720, Sections 2 and 3, on page 80.

**See General Laws, Chapter 30, Section 59, on page 56, and Acts of 1968, Chapter 637, Section 7, on page 78.

commission for action. The decision of the commission shall be in writing and notice thereof sent to all parties concerned within ten days after filing of the report. If the commission finds that the action of the appointing authority was justified, such action shall be affirmed; otherwise, it shall be reversed and the person concerned shall be returned to his office or position without loss of compensation. The commission may also modify any penalty imposed by the appointing authority.

(c) Any hearing under this section shall, if either party concerned so requests in writing, be public, and at any such hearing the person concerned shall be allowed to answer the charges preferred against him either personally or by counsel.

(d) The reasons, notices and answers and the order of discharge, removal, suspension, layoff, transfer, lowering in rank or compensation or abolition of the office or position, and the facts as found by the commission, shall be subject to judicial review by the municipal court of the city of Boston or by the district court within the judicial district of which such person resides, as provided in section forty-five.

(e) A suspension for a period not exceeding five days may be made only by the appointing authority or by a subordinate to whom authority to make such suspensions has been delegated, or by a chief of police, or officer performing similar duties, however entitled, or by a subordinate to whom such authority has been delegated by him, and shall be made only for just cause. The officer or employee suspended shall be reinstated by the person authorized to make the suspension at the expiration of the period of such suspension, but shall not be entitled to compensation for such period unless, as hereinafter provided, the suspension is found after hearing or upon appeal to have been without just cause. Within twenty-four hours after his suspension, such officer or employee shall be given a copy of sections forty-three, forty-five and forty-six A, by the person authorized to make the suspension, together with a written notice stating the specific reason for the suspension and informing him that he may, within forty-eight hours of his receipt of such notice, request in writing a hearing by the appointing authority on the question of whether there was just cause for the suspension and if he so requests he shall be given a hearing within five days of the receipt of such request by the appointing authority. A copy of the notice of suspension to the officer or employee shall be forwarded forthwith to the director of civil service by the person authorized to make the suspension, together with a request for the approval of reinstatement of the officer or employee to be effective at the expiration of the period of suspension. Whenever such hearing is given, the appointing authority shall give the officer or employee suspended a written notice of his decision within two days after the hearing. An officer or employee whose suspension under this paragraph is decided, after hearing, to have been without just cause shall be deemed not to have been suspended and he shall be entitled to compensation for the period for which he was suspended, and if it is decided, after hearing, that there was just cause for such suspension such officer or employee may appeal to the commission as provided in paragraph (b) and he shall be entitled to judicial review of the action taken by the commission as provided in paragraph (d). The provisions of paragraph (c) shall apply to all hearings under this paragraph. No officer or employee shall be subsequently discharged, removed, suspended for a period exceeding five days, laid off, transferred from his office or employment without his consent if he held office or employment prior to October fourteen, nineteen hundred and sixty-eight or lowered in rank or compensation, nor shall his office or position be abolished, for the same specific reason or reasons for which he was originally temporarily suspended for a period not exceeding five days under this paragraph except in accordance with paragraph (a). Notice of any action taken by the appointing authority under this paragraph shall be forwarded forthwith to the director of civil service.

(f) An officer or employee shall automatically be reinstated at the end of the first period for which he was suspended. Any subsequent reinstatement after suspension shall be subject to the approval of the director, and, if denied, an appeal

may be taken to the commission as provided in section two (*b*). The notice required by paragraph (*a*) of this section to be given to an employee whom it is proposed to suspend after a prior suspension shall state that his reinstatement after such suspension is subject to the approval of the director.

(*g*) Punishment duty shall not be imposed without just cause upon any police officer or fire fighter subject to this chapter. A police officer or fire fighter upon whom punishment duty is imposed shall, within twenty-four hours of the imposition of such punishment duty, be given a copy of this section and of section forty-five, together with a written notice stating the specific reason for the imposition of such punishment duty and the duration thereof and informing him that he may, within forty-eight hours of receipt of such notice, request in writing a hearing by the appointing authority, and if he so requests he shall be given a hearing within five days of receipt of such request by the appointing authority. A copy of the notice of imposition of punishment duty shall be forwarded forthwith to the director of civil service. Whenever such hearing is given, the appointing authority shall give the police officer or fire fighter upon whom the punishment duty is imposed a written notice of his finding within two days after the hearing. If, after such hearing, the appointing authority finds no just cause exists for the imposition of punishment duty, such punishment duty shall be deemed not to have been imposed; if, after such hearing, the appointing authority finds that just cause does exist for the imposition of punishment duty, the police officer or fire fighter upon whom the punishment duty is imposed may appeal to the commission as provided in paragraph (*b*), and he or the appointing authority shall be entitled to judicial review of the action taken by the commission as provided in paragraph (*d*). The provisions of paragraph (*c*) shall apply to all hearings under this paragraph. Notice of any action taken by the appointing authority under this paragraph shall be forwarded forthwith to the director of civil service.

(*h*) Any person holding office or employment under permanent appointment in the official or labor services of the commonwealth, or any county, city, town or district thereof who has incurred expense in defending himself against an unwarranted discharge, removal, suspension, laying off, transfer, lowering in rank or compensation, or abolition of his position, shall, if he engages an attorney for such defense, be reimbursed for such expense; provided, however, that the amount of such reimbursement shall in no event exceed an aggregate sum of nine hundred dollars. Such reimbursement, in each instance, shall be limited to a sum not to exceed two hundred dollars in: —

- (1) a hearing by the appointing authority;
- (2) a hearing by the civil service commission;
- (3) a judicial review by the municipal court of the city of Boston or by the district court within the judicial district where such person resides, as provided in section forty-five.

In addition thereto, reimbursement in each instance shall be limited to a sum not to exceed one hundred dollars for: —

- (1) summons of witnesses;
- (2) cost of stenographic transcript;
- (3) any other necessary expense incurred in such defense.

Any such person shall, upon written application made to his appointing authority within thirty days from final disposition of his case be reimbursed from the same source from which his salary is paid. Such reimbursement shall be paid within thirty days from the receipt of such written application by the appointing authority. No reimbursement shall be made except upon receipt of satisfactory proof that such expenses were actually incurred for the purposes set forth in this section.

(*i*) In the computation of any period of time limited by this section, Saturdays, Sundays and holidays shall be excluded.

(*j*) The provisions of this section or sections forty-five and forty-six A shall not apply to any person who has been reported as on unauthorized absence as provided for in section eighteen.

SECTION 44. (Repealed by 1923, c. 242.)

SECTION 45. (1945, c. 667; 1955, c. 407; 1970, c. 72, 711.) Within thirty days after receipt of notice of the final decision of the commission on a hearing provided for in section forty-three, the person who was discharged, removed, suspended, laid off, transferred from his office or employment without his consent in writing if he held office or employment prior to October fourteen, nineteen hundred and sixty-eight or lowered in rank or compensation, or whose office or position was abolished, may, if said action was affirmed by the commission or if said action was modified by the commission and such person continues to be aggrieved by such modification, file a petition to review the commission's decision in the municipal court of the city of Boston or in the district court within the judicial district of which such person resides. A copy of the petition shall, within the same period, be served personally or by registered mail upon the commission and the appointing authority. Service on the commission shall be sufficient if service is made on any member of the commission or on the secretary to the commission.

The petition shall be addressed to the court and shall name as respondents (a) the chairman and members of the commission and (b) the appointing authority. It shall include a concise statement of the facts upon which jurisdiction and venue are based, facts showing that the petitioner is aggrieved, and the ground or grounds specified in paragraph (6) of this section upon which petitioner contends he is entitled to relief. The petition shall demand the relief to which petitioner believes he is entitled.

Within thirty days after service of a copy of the petition to review upon the commission, the commission shall cause an appearance to be entered on its behalf. At the time of the hearing on the petition, the commission shall file with the court the original or a certified copy of the record of the proceeding under review. The original or certified copy, as the case may be, shall be accompanied by a certification over the signature of the secretary to the commission, that the same is true and complete. The record shall consist of (a) the entire proceedings, or (b) such portions thereof as the commission and the parties may stipulate, of (c) a statement of the case agreed to by the commission and the parties. The expense of preparing the record may be assessed as part of the costs in the case. The court may require or permit subsequent corrections or additions to the record when deemed desirable.

The review shall be conducted by the court and shall be confined to the record, except that in cases of alleged irregularities in procedure before the commission, not shown in the record, testimony thereon may be taken in the court.

If application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material to the issues in the case, and that there was good reason for failure to present it in the proceeding before the commission, the court may order that the additional evidence be taken before the commission upon such conditions as the court deems proper. The commission may modify its findings and decision by reason of such additional evidence and shall file with the reviewing court, to become a part of the record, the additional evidence together with any modified or new findings or decision.

The court may affirm the decision of the commission if it finds that the decision was justified or remand the matter for further proceedings before the commission; or the court may set aside and reverse the decision of the commission if it determines that such decision is —

- (a) in violation of constitutional provisions; or
- (b) in excess of the statutory authority or jurisdiction of the commission; or
- (c) based upon an error of law; or
- (d) made upon unlawful procedure; or
- (e) unsupported by substantial evidence; or

(f) arbitrary or capricious, an abuse of discretion, or otherwise not in accordance with law.

The court shall make the foregoing determination upon consideration of the entire record, or such portions of the record as may be cited by the parties.

If the court finds that the decision of the commission confirming action by an appointing authority in discharging, removing, suspending, laying off, transferring from his office or employment without his consent, lowering in rank or compensation, or abolishing his position should be reversed, the employee shall be reinstated in his office or position without loss of compensation.

The decision of the court shall be final and conclusive upon the parties, and a copy of the decision shall be forwarded forthwith by the clerk of the court to the commission, the appointing authority and the petitioner.

SECTION 45A. (1941, c. 166.) If any claim is made that the seniority rights of a petitioner under section forty-five have been or may be violated by the action of the officer or board whose action is sought to be reviewed, the court may, upon application of any party to such petition made at any time before final action on such petition, and upon proper notice, order that any person whose rights are claimed or appear to be junior to those of the petitioner, be made respondent in the proceeding, and shall thereupon determine the rights of the respective parties therein.

SECTION 45B. (1941, c. 135; 1945, c. 667.) Each clerk of a district court shall, annually on or before October fifteenth, make a written report to the director, containing the following information: — number of petitions brought before his court under section forty-five during the year ending on the next preceding September thirtieth, the position and place of employment of each petitioner, the nature of the action sought to be reviewed in each case, and the decision, if any, of the court in each such case, together with all decisions of the court in all cases brought under said section which were pending and undecided at the beginning of said year.

SECTION 46. (Repealed by 1945, c. 667.)

SECTION 46A. (1959, c. 569.) The supreme judicial court shall have jurisdiction of any petition for a writ of mandamus for the reinstatement of any person alleged to have been illegally discharged, removed, suspended, laid off, transferred, lowered in rank or compensation, or whose office or position is alleged to have been illegally abolished under this chapter; provided, that such petition shall be filed in said court within six months next following such allegedly illegal discharge, removal, suspension, laying off, transfer, lowering in rank or compensation, or abolition of his position, unless said court for cause shown extends the time.

If any person alleges that his employment or compensation has been affected by action of the appointing authority in failing to follow the requirements of section forty-three, he may file a complaint with the civil service commission within seven days, exclusive of Saturdays, Sundays and holidays, after the said action has been taken. Said complaint shall set forth just how the appointing authority has failed to follow the requirements of section forty-three. This complaint may be filed with the request of the said person for a hearing under the provisions of said section forty-three and if it is determined by the civil service commission that the said authority has failed to follow the requirements of section forty-three and that the rights of said person have been prejudiced thereby, the said commission may order the said appointing authority to restore immediately said person to his employment without loss of compensation or other rights.

SECTION 46B. (Repealed by 1945, c. 667.)

SECTION 46C. (1939, c. 238; 1945, c. 704; 1947, c. 373; 1964, c. 482; 1969, c. 3.) An officer or employee of the commonwealth or of any city or town

who has been separated from an office or position in the official or labor service may, upon the request of the appointing authority and with the approval of the director, be reinstated in the same or in another department in a position in the same class and grade or in a lower grade in the same class; provided, the appointing authority submits to the director in writing the reasons why such reinstatement would be in the public interest; but no such request shall be approved if there is a suitable eligible list containing names of two or more persons available for appointment to such position and if the officer or employee for whom reinstatement is requested has been separated from the official or labor service for a period of over five years. Nothing herein shall impair the preference to disabled veterans provided by section twenty-three, or affect the rights of persons to reinstatement under sections forty-six G and forty six H or under section forty-three, so far as it relates to a first suspension. Seniority of any person reinstated to a position in a department in which he formerly had a permanent civil service status shall be computed as set forth in section fifteen D. In the event of his reinstatement in a department other than that in which he formerly had a permanent civil service status, the seniority of a person shall be computed from the date of the reinstatement, but upon continuous service in such department for three years of twice the length of his absence from the payroll as shown in the payroll records of the division, whichever is the greater, his seniority shall be computed in accordance with section fifteen D as though his earlier service in a permanent civil service status had been in the department in which he has been reinstated. If the director fails to approve the reinstatement of such officer or employee within thirty days after the request of the appointing authority, the appointing authority or such officer or employee may make a request for a hearing before the director. The director shall forthwith hold a hearing and render his decision.

SECTION 46D. (Repealed by 1945, c. 704.)

SECTION 46E. (1939, c. 238; 1941, c. 136; 1945, c. 703; 1951, c. 37; 1965, c. 703; 1967, c. 143; 1968, c. 12; 1969, c. 3, 45.) An appointing authority may grant a leave of absence or extension of a leave of absence for a period not to exceed three months in any period of twelve consecutive months to a person holding office or employment. No leave of absence for a period longer than fourteen days shall be granted except upon the written request of such person, or a person authorized to do so, together with a detailed statement of reason for such request, filed with the appointing authority, or if absence is caused by illness substantiating proof of such illness, and the giving of approval by the appointing authority in writing to such person. A copy of such written approval shall be kept on file by the appointing authority who shall, upon request, forward a copy of said written approval to the commission or director. In the case of a city or town, the appointing authority shall forward forthwith a copy of the written approval of such leave of absence to the city or town clerk, as the case may be. No leave of absence for a period longer than three months, except one granted on account of illness, as evidenced by the certificate of a registered physician approved by the director, may be granted without the prior approval of the director.

*Any person holding an elective state office, or the mayor of any city elected to said office by the people, who holds a permanent office or position in the classified civil service or the labor service or who is employed on a permanent basis by any public authority which is supported in whole or in part by public money shall, upon his written request, made to the appointing authority, be granted a leave of absence without pay from such office, position or employment for all or such portion of the term for which he was elected as he may at any time, or from time to time, designate, and he shall not be suspended or discharged, and shall suffer no loss of civil service rights, as a result of such election.

* Acts of 1965, Chapter 703.

SECTION 2. This act shall not apply to any office or position to which the federal standards for a merit system of personnel administration apply and for which there is federal reimbursement.

Any person who has been granted a leave of absence or an extension of a leave of absence in accordance with the provisions of this section shall be reinstated at the end of the period of approved absence and may be reinstated earlier. If the appointing authority fails to make a request of the director for the approval of the reinstatement upon demand of such person, the person may make a request for a hearing before the director. The director shall forthwith hold a hearing and render his decision. Notwithstanding the provisions of section forty-three and forty-five, if any person does not return to his office or employment prior to or at the end of the period of approved absence, the appointing authority shall, within fourteen days after the expiration of such period, give such person a written notice setting forth the pertinent facts in the case and notifying him that his services are considered as terminated, whereupon the service of the officer or employee shall terminate. The appointing officer shall forward to the director a copy of the written notice and a notice of the termination of service, setting forth the date on which the service of such officer or employee should be noted as terminated. Nothing in this section shall be deemed to prevent the subsequent reinstatement of such a person in accordance with the provisions of section forty-six C.

SECTION 46F. (Repealed by 1945, c. 704.)

SECTION 46G. (1945, c. 704; 1949, c. 170; 1967, c. 96.) If the separation from service of persons in the official or labor service results from lack of work or lack of money or from abolition of positions, they shall be separated from service by class and grade, except as hereinafter provided, and be reinstated therein in the same department and in the same position or in a similar position as that formerly held by them, according to their seniority in the service, so that the senior officers or employees in length of service shall be retained the longest and reinstated first and before any certification of new names; provided, however, that such reinstatement is made within a period not exceeding five years after the date of such separation. Before any action is taken to effect such a separation from service of any officer or employee, seven days' written notice thereof shall be given to him by the appointing authority.

If before action is taken to effect such a separation and within said seven days an officer or employee files his written consent with the appointing officer, he shall be demoted to the next lower grade or grades in succession in the official service or to the next lower class or classes in succession in the labor service, if in such lower grades or classes there is an officer or employee junior to him in length of service. As soon as sufficient work or money is available, officers or employees so demoted shall be restored to the grade or class formerly held by them, according to their seniority.

Nothing in this section shall impair the preference provided for disabled veterans by section twenty-three.

SECTION 46H. (1939, c. 238.) Any officer or employee of a city or town who has become separated from the classified civil service by reason of his retirement under the provisions of any general or special law, if his retirement is subsequently invalidated and his retirement allowance discontinued by reason of the illegality of, or a defect in, the proceedings relative to such retirement, shall, upon application to the director within one year from the last payment of said retirement allowance be reinstated by the director in the same position, or in a position in the same class and grade as that formerly held by him, without loss of compensation.

SECTION 46I. (1945, c. 703; 1946, c. 60; 1947, c. 12; 1951, c. 420; 1960, c. 231; 1967, c. 88.) Whenever a person is separated from the official or labor service for lay-off due to lack of work or lack of money or for abolition of position, his name shall be placed by the director on the re-employment list, and if a person is separated from such service because of resignation on account of illness his name shall be placed thereon upon his request in writing made within two years from the date of such separation. The name of any person so placed on the re-employment list shall remain thereon until he is appointed to a position after

certification from such list or reinstated to a civil service position, but in no event for longer than two years. This section shall not apply to persons originally employed on requisition for temporary service or to provisional appointees. Thereafter, on requisition to fill any position which, in the judgment of the director, can be filled from such re-employment list, the director, before certifying from the regular list, shall certify from such re-employment list, in accordance with the rules relative to certification, the names of persons then standing thereon in the order of the dates of their original appointment.

If the functions of an office or position occupied by a person holding permanent civil service status are transferred to another department, division, board or commission, the incumbent of the office or position shall at his own request, in lieu of being placed on a re-employment list, be transferred, upon the approval of the director, to such department, division, board or commission, to a similar office or position without loss of seniority, retirement or other rights.

SECTION 46J. (1946, c. 288.) The right of persons employed under civil service by the commonwealth or by any political subdivision thereof, either individually or collectively, to petition the general court or any member thereof, to furnish information to either branch of the general court or to appear before any committee thereof shall not be denied or interfered with. This section shall not authorize an employee not on leave to absent himself during regular working hours from his office or employment without permission.

SECTION 46K. (1952, c. 138.) The right of persons employed under civil service by any city or town of the commonwealth, either individually or collectively, to petition the city or town government or any member thereof, to furnish information to the mayor, city or town manager, city council, board of aldermen or selectmen, or to appear before any committee thereof shall not be denied or interfered with. This section shall not authorize an employee not on leave to absent himself during regular working hours from his office or employment without permission.

SECTION 46L. (1961, c. 150.) Every year round temporary position in the labor service of cities in which such service is classified under the civil service laws and rules and for which compensation has been duly paid for a continuous period of two years shall be deemed to be a permanent position. Certification to fill such positions shall first be made of persons with experience in the department as set forth in the civil service rules. If a person who has had temporary service as a result of civil service certification for at least two years receives a permanent appointment in the same department in which he had such temporary employment, he shall not be subject to a probationary period.

This section shall take effect in a city upon its acceptance by vote of the city council, subject to the provisions of its charter.*

SECTION 46M. (1961, c. 378.) Any permanent intermittent junior building custodian in the school department of any city or town who refuses to accept appointment as a permanent full time junior building custodian in said school department on the occasion of three separate certifications shall be ineligible for further certification, and shall thereupon cease to be a permanent intermittent junior building custodian. The appointing officer shall forward to the director and to the permanent intermittent junior building custodian affected a notification of the termination of the service of such permanent intermittent junior building custodian, setting forth the occasion of each refusal and the date upon which the services of such permanent intermittent junior building custodian ceased.

*Acts of 1961, Chapter 150.

SECTION 2. The provisions of section forty-six L of chapter thirty-one of the General Laws, inserted by section one of this act shall apply to any position for which compensation has been duly paid for a continuous period of two years or more immediately preceding January first, nineteen hundred and sixty-one.

This section shall take effect in a city upon its acceptance by vote of its city council subject to the provisions of its charter, in a town upon its acceptance by vote of the inhabitants of the town at an annual town meeting, or, if such custodians are appointed in a city or town by the school committee thereof, upon its acceptance by such committee.

APPLICATION OF LAW TO COMMONWEALTH, CITIES AND TOWNS.

(Caption amended by 1957, c. 29.)

SECTION 47. (1945, c. 701.) This chapter shall be in force with respect to the official and the labor service in all cities of the commonwealth of one hundred thousand or more inhabitants, whether or not such cities have accepted this chapter or corresponding provisions of earlier law. This chapter shall be in force in all cities of the commonwealth of less than one hundred thousand inhabitants with respect to the official service and shall be in force with respect to the labor service in cities of less than one hundred thousand inhabitants which have accepted the corresponding provisions of earlier laws or accept the pertinent provisions of this chapter by vote of the city council.

This chapter shall be in force with respect to the official or the labor service, or both, in every town of more than five thousand inhabitants using official ballots at town elections which accepts the provisions of this chapter relative thereto by vote in answer to a question* placed on the official ballot at an annual town election as hereinafter provided, and in every such town not using official ballots at town elections which accepts said provisions at an annual town meeting; and all applicable provisions of this chapter shall be in force in every town of more than twelve thousand inhabitants which has accepted said provisions or corresponding provisions of earlier laws by vote at a town meeting.

Upon the filing, with the clerk of any town of more than five thousand inhabitants using official ballots at town elections, of a petition signed either by not less than one thousand registered voters thereof or by not less than five percent of the total number of registered voters thereof, requesting that the question of accepting the pertinent provisions of this chapter with respect to the official or the labor service, or both, be placed upon the official ballot, the clerk shall, if such provisions are not already in force in such town, place such question on the official ballot for the next town election occurring more than thirty days after the filing of such petition. The provisions of section forty-nine A relative to the certification of names on petitions under said section and to the filing and hearing of objections to the validity or sufficiency of such petitions or of the signatures thereon shall apply in the case of petitions under this section.

SECTION 47A. (1941, c. 195; 1945, c. 701; 1946, c. 59; 1948, c. 278; 1950, c. 376; 1967, c. 74; 1970, c. 49; 1971, c. 152.) Where any office or position is placed within the official or labor service by the provisions of this chapter or by any other statute, or by rule, or by acceptance of provisions of this chapter or any other statute by a city or town, the appointing authority shall forthwith submit to the director a list of the incumbents of all such offices and positions. Said list shall state the type and kind of work, a record of service with dates of employment, and the compensation of each person, and any other information which the director may require. The appointing authority shall cause a copy of such list to be posted in a public place for a period of thirty days.

After the completion of said period of posting, the director shall classify each office or position on said list and shall fix the seniority date of each employee in conformity, so far as practicable, with the provisions of section fifteen D. The director shall notify each person on said list of his rating and seniority date as determined by him and such other information as the director shall deem pertinent. Within fourteen days after said notification, any person whose rights are alleged to have been affected may appeal to the director as to the correctness of the list, his ratings and seniority date. The director or his authorized representative shall forthwith hold a hearing and shall hear all parties concerned. After said

* See General Laws, Chapter 54, Section 58A, on page 62.

hearing the director may make such changes as he may deem necessary in the rating and seniority date. After seniority is determined as provided herein, it shall continue subject however to the provisions of section fifteen D. The provisions of this paragraph relative to the classification of any office or position or the appeal or change relative to a rating shall not apply in the cases of those offices or positions which are subject to the provisions of section forty-five of chapter thirty.

* The status of the incumbents of such offices or positions shall, except as otherwise expressly provided in this chapter, be determined as follows:—

1. All temporary officers or employees and all officers or employees who have been employed for less than six months immediately prior to the placing of the office or position under civil service may continue as temporary officers or employees for a period of not more than one year but shall not otherwise be subject to the provisions of this chapter.

2. All incumbents of positions within the labor service who have been employed for six months or more and less than two years immediately prior to the placing of the position under civil service shall be deemed to be permanently appointed under civil service after serving a probationary period.

3. All incumbents of positions within the labor service who have been employed for two years or more immediately prior to the placing of the position under civil service shall be deemed to be permanently appointed under civil service without serving any probationary period.

* 4. All incumbents of offices or positions within the official service who have been employed for six months or more but less than two years immediately prior to the placing of the office or position under civil service shall be subject to a qualifying examination prescribed by the director, and, if they pass, shall be certified for permanent appointment subject to serving a probationary period.

5. All incumbents of offices or positions within the official service who have been employed for two years or more immediately prior to placing the office or position under civil service shall be subject to a qualifying examination prescribed by the director, and, if they pass, shall be certified for permanent appointment without serving any probationary period.

All incumbents of offices or positions within the official service who fail to pass the qualifying examination may be continued by the appointing authority in the office or position for the remainder of the term, if any, for which they were appointed, but shall not otherwise be subject to the provisions of this chapter.

Where a permanent officer or employee had formerly occupied in the same department a non-civil service position which is subsequently brought under civil service by statute, or by rule, or by acceptance of provisions of this chapter or any other statute by a city or town, the seniority date of such officer or employee shall be the earliest date of continuous employment which has not been interrupted by an absence from the payroll. However, when an incumbent acquires or has acquired by statute permanent civil service status in an office or position which previous to the effective date of such act had been placed within the official or labor service by the provisions of this chapter or by any other statute, or by rule, or by acceptance of provisions of this chapter or any other statute by a city or town, the seniority date of such incumbent shall be the effective date of such statute, unless otherwise specifically provided therein.

Whenever a school district is established under the provisions of general or special law to which the provisions of this chapter do not apply and said district is to include a school or schools of a city, town or school district to which, prior to said establishment the provisions of this chapter were applicable, any employee in such a school shall, if he so requests, be transferred to the newly established school district. Any employee so transferred shall retain his civil service rights under sections forty-three and forty-five and his rights to transfer held by him immediately prior to such transfer, provided that such rights shall apply only

while he is serving in the same capacity or position held on the effective date of the transfer to the newly established school district which is not subject to the provisions of this chapter. Nothing in this paragraph shall prevent the reassignment of an employee to another school which is to continue in a school system subject to the provisions of this chapter nor prevent a transfer, if such assignment or transfer can be made in lieu of a transfer to the newly established school district.*

SECTION 47B. (1941, c. 290; 1945, c. 701; 1956, c. 49; 1960, c. 73; 1967, c. 74.) The provisions of this chapter and the rules made thereunder shall apply to janitors of school buildings or supervisors of attendance, as the case may be, in every town of more than five thousand inhabitants using official ballots at town elections which accepts this section with reference to such janitors or to such supervisors by vote in answer to a question** placed on the official ballot at an annual town election as hereinafter provided, and in every such town not using official ballots at town elections which accepts this section with reference to such janitors or to such supervisors at an annual town meeting, and shall apply to such janitors or supervisors of attendance in every town of more than twelve thousand inhabitants which has accepted earlier provisions of law providing for their inclusion within the civil service.

The provisions of this chapter and the rules made thereunder shall apply to clerical positions in school departments in every town of more than five thousand inhabitants using official ballots at town elections which accepts this section with reference to such employees by vote in answer to a question* placed on the official ballot at an annual town election as hereinafter provided, and in every such town not using official ballots at town elections which accepts this section with reference to such clerical employees at an annual town meeting, and shall apply to such clerical employees in every town which has accepted the provisions of the civil service law with reference to its official service as provided in section forty-seven.

The provisions of this chapter and the rules made thereunder shall apply to sealers and deputy sealers of weights and measures or inspectors and deputy inspectors of weights and measures, whether such officers are heads of principal departments or not, in every town of more than five thousand and not more than ten thousand inhabitants using official ballots at town elections which accepts this section with reference to such officers by vote in answer to a question** placed on the ballot at an annual town election as hereinafter provided, and in every such town not using official ballots at town elections which accepts this section with reference to such officers at an annual town meeting.

Upon the filing, with the clerk of any such town of more than five thousand inhabitants using official ballots at town elections, of a petition signed either by not less than one thousand registered voters thereof or by not less than five per cent of the total number of registered voters thereof, requesting that the question* of accepting the provisions of this section relative to janitors of school buildings, supervisors of attendance, clerical positions in school departments, or sealers and deputy sealers of weights and measures or inspectors and deputy inspectors of weights and measures, as the case may be, be placed on the official ballot, the clerk shall, if such provisions are not already in force in such town, place such question on the official ballot for the next town election occurring more than thirty days after the filing of such petition. The provisions of section forty-nine A relative to the certification of names on petitions under said section and to the filing and hearing of objections to the validity or sufficiency of such petitions or of the signatures thereon shall apply in the case of petitions under this section.

* See General Laws, Chapter 71, Section 42B on page 63.

** See General Laws, Chapter 54, Section 58A on page 62.

Acceptance of this section or corresponding provisions of earlier laws with reference to any of the aforesaid officers shall not prevent subsequent acceptance of this section with reference to any or all of such officers as to whom there has been no acceptance of said section or provisions.

SECTION 47C. (Repealed by 1967, c. 658.)

SECTION 47D. (Repealed by 1967, c. 658.)

SECTION 47E. (Repealed by 1967, c. 658.)

SECTION 48. (1945, c. 701; 1947, c. 239; 1953, c. 306; 1954, c. 90; 1967, c. 246; 1970, c. 162.) Regular or permanent members of police and fire forces of cities, and regular or permanent members of police and fire forces and call fire forces of such towns as, with reference to said forces, respectively, accept the provisions of this section as hereinafter provided or have accepted corresponding provisions of earlier laws, and chiefs of police or officers performing similar duties, however entitled, and chiefs of fire departments or officers performing similar duties however entitled, of such cities or towns, as, with reference to such officers, respectively, accept the provisions of this section as hereinafter provided or have accepted corresponding provisions of earlier laws, shall be subject to the provisions of this chapter and the rules established thereunder.

In cities, acceptance of the provisions of this section relative to any such officer shall be by vote in answer to a question* placed on the official ballot at a regular city election as hereinafter provided. Upon the filing, with the clerk of any city, of a petition signed either by not less than five thousand registered voters thereof or by not less than five per cent of the total number of registered voters thereof, requesting that the question of accepting the pertinent provisions of this chapter with reference to such officer be placed upon the official ballot, the clerk shall, if such provisions are not already in force in such city, place such question on the official ballot for the next regular city election occurring more than sixty days after the filing of such petition.

In towns using official ballots at town elections, acceptance of the provisions of this section relative to any such officer or force shall be by vote in answer to a question* placed on the official ballot at an annual town election as hereinafter provided, and in towns not using official ballots at town elections such acceptance shall be by vote at an annual town meeting. Upon the filing, with the clerk of any town using official ballots at town elections, of a petition signed either by not less than one thousand registered voters thereof or by not less than five per cent of the total number of registered voters thereof, requesting that the question of accepting the pertinent provisions of this chapter with reference to any such officer or force be placed upon the official ballot, the clerk shall, if such provisions are not already in force in such town, place such question on the official ballot for the next town election occurring more than thirty days after the filing of such petition. The provisions of section forty-nine A relative to the certification of names on petitions under said section and to the filing and hearing of objections to the validity or sufficiency of such petitions or of the signatures thereon shall apply in the case of petitions under this section.

Acceptance of this section or corresponding provisions of earlier laws with reference to any of the aforesaid officers or forces shall not prevent subsequent acceptance of this section with reference to any or all of such officers or forces as to which there has been no acceptance of said section or provisions.

Section forty-seven A shall not apply to incumbents of the office of chief of police, or officer performing similar duties, however entitled, or of the office of chief of the fire department, or officer performing similar duties, however entitled, at the time of the acceptance of this section with respect to such officers, respectively. Such incumbents who shall have served therein continuously for not less than five years in the case of a city office, or for not less than three years

* See General Laws, Chapter 54, Section 58A, on page 62.

in the case of a town office, immediately prior to the filing of the petition relative thereto, shall be subject to the provisions of this chapter and the rules made thereunder, notwithstanding any provisions of law exempting such office or the incumbent thereof from any provisions of this chapter. All such incumbents shall be subject to a qualifying examination prescribed by the director, and, if they pass, shall be certified for permanent appointment without serving any probationary period. All such incumbents who fail to pass the qualifying examinations may be continued by the appointing authority in the office or position for the remainder of the term, if any, for which they were appointed, but shall not otherwise be subject to the provisions of this chapter.

The status of all incumbents of positions in regular or permanent police or fire forces in towns or call fire forces in towns, at the time of acceptance of this section with reference to such forces, shall be determined as provided in section forty-seven A, in so far as it applies to the official service.

The office of chief engineer of a district organized under general or special law, having a fire department, and incumbents of any such office, shall be subject to the provisions of this section relative to towns, and for this purpose, the word "town" shall include a district, the words "regular municipal election" shall include an annual district meeting, and the words "town clerk" shall include the clerk of a district.

SECTION 48A. (1967, c. 857; 1968, c. 746; 1969, c. 16; 1972, c. 226.) No applicant for appointment to the police force of a city or town shall be required by rule, or otherwise, to be a resident of such city or town at the time of filing his application for examination for such appointment; provided, however, that notwithstanding the provisions of any general or special law to the contrary, any person who receives an appointment to the police force of a city or town shall within nine months after his appointment establish his residence within such city or town or at any other place in the commonwealth that is within ten miles of the perimeter of such city or town. If any person has resided in a city or town for one year immediately prior to filing his application for examination and has the same standing as any person who has not so resided in such city or town, the director of civil service, when establishing the list of eligible applicants, shall place the name of the person so residing ahead of the name of the person not so residing, or upon written request of the appointing authority to the director, the director shall place the names of all persons who have resided in a city or town for one year immediately prior to the date of examination ahead of the name of any person not so residing, provided that the request is made prior to establishment of the eligible list. The commission may by rule require that any such applicant shall have resided in the commonwealth for one year prior to filing such application.

SECTION 48B. (1968, c. 461.) A city, by vote of its city council, and a town, by vote of its town meeting, may place the position of parking meter supervisor under the provisions of this chapter.

SECTION 48C. (1970, c. 51) Notwithstanding any rule or regulation of the commission to the contrary, no person shall be employed by the metropolitan district commission as a beach or swimming pool lifeguard unless he has attained his eighteenth birthday.*

SECTION 49. (Repealed by 1945, c. 701.)

SECTION 49A. (1941, c. 414; 1945, c. 701.) If there is filed with the clerk of a city, or town using official ballots at town elections, a petition conforming to this section, requesting that an office or offices in such city or town subject to this section and specified in the petition be placed within the classified civil service, the question or questions whether such office or offices shall be placed with-

*See Acts of 1970, Chapter 437, on page 79.

in said service shall be submitted to the registered voters of such city or town at the next regular municipal election occurring after the expiration of sixty days following the filing of such petition.

No petition under this section shall be received for filing unless it is signed either by not less than five thousand registered voters of the city or town or by not less than five per cent of the total number of registered voters of such city or town and the names of the voters so signing are certified as hereinafter provided, nor unless it bears the approval in writing of the incumbent or incumbents, at the time of filing the petition, of the office or offices specified therein.

Signatures to petitions under this section need not all be on one paper. All such papers pertaining to any one position shall be fastened together and shall be filed in the office of the city or town clerk as one instrument, with the endorsement thereon of the names of three persons designated as filing the same. Each person signing such petition shall state thereon his name and his place of residence on January first preceding, giving the street and number, if any, or, if he became an inhabitant of such city or town after said January first, the place where he first resided thereafter. Such a petition for the placing of any such question on the official ballot at a regular municipal election shall be submitted to the registrars of voters of such city or town, for the purpose of certifying on such petition the names of persons signing the same who are registered voters, not later than five o'clock in the afternoon of the seventh day preceding the last day prior to said election when such petition may be filed under this section. The registrars of voters shall, within five days after such submission, ascertain by what number of registered voters such petition has been signed, and shall make and certify a statement of their determination in detail, setting forth such number and whether or not the same has been signed by the number of registered voters herein required, and shall attach such statement to said petition.

Written objections to the validity or sufficiency of any such petition for the placing of any such question on the official ballot at a regular municipal election or of the signatures on such petition may be filed with the city or town clerk not later than forty-eight hours after the last day prior to said election when such petition may be filed under this section, and such objections shall be considered by the appropriate board referred to in section twelve of chapter fifty-three. In the consideration of objections under this section such board shall have and exercise all the powers given to it by any provision of law relative to objections to nominations. The notice provided by said section twelve shall be sent to the persons filing the petition and to each officer affected thereby. Said board shall make its decision within four days after the expiration of the time for filing such objections, and forthwith give notice thereof to the city or town clerk.

If such petition, bearing the endorsement of signatures of registered voters to the number herein required, as shown by the statement of the registrars of voters, is filed with the city or town clerk seasonably for submission to the voters at a regular municipal election, and the said clerk finds that same to be in order, he shall cause the question or questions contained therein to be printed on the official ballot for such election.

A question or questions under this section shall be printed on the official ballot to be used at a regular municipal election, in substantially the following form:—

QUESTION 1. (Part 1) Shall the city (or town) vote that the office of (title of office) be placed within the classified civil service? Yes . . . No . . .

(Part 2) If it is voted to place the office of (title of office) within the classified civil service, shall the city (or town) vote to provide for the continuance in said office of (name of incumbent), the present incumbent thereof, after passing a qualifying examination? Yes . . . No . . .

There shall be a separately numbered question for each office sought to be placed within the classified civil service under this section. If more than one such question is to be submitted to the voters of a city or town at any election, such questions shall be printed on the official ballot in alphabetical order according to

the surnames of the incumbents of the several offices to which such questions relate.

The office specified in Part 1 of each question submitted under this section, in answer to which a majority of the voters voting thereon vote in the affirmative, shall be placed within the classified civil service, and the tenure of office of any incumbent thereof shall be unlimited subject, however, to the provisions of this chapter, provided, that if Part 2 of the question in which such office is specified is so answered in the affirmative the incumbent thereof at the time of filing such petition shall, if still the incumbent thereof, be subjected by the division to a qualifying examination for such office, and if he passes said examination, he shall be certified for said office and shall be deemed to be permanently appointed thereto without being required to serve any probationary period. If such incumbent does not pass such qualifying examination, or if a majority of the voters voting on said Part 2 of the question does not vote thereon in the affirmative, such incumbent may continue to serve in said office for the remainder of the term, if any, for which he was appointed, but shall not be subject to this chapter. The status of such incumbents shall not be subject to section forty-seven A.

This section shall apply to any municipal office the incumbent of which shall have served therein continuously for not less than ten years in the case of a city office or for not less than five years in the case of a town office, immediately prior to the filing of the petition relative thereto, notwithstanding any provision of law exempting such office or the incumbent thereof from any provision of this chapter; but this section shall not apply to any office filled by popular vote or to the office of city solicitor, assistant city solicitor, secretary to the mayor, clerk to the board of selectmen, town counsel, assistant town counsel, legislative counsel, registrar of voters or public school teachers.

The words "registrars of voters" as used in this section shall include election commissioners or other officers performing similar duties.

The provisions of section sixteen of chapter fifty-three relative to the preservation of nomination papers shall apply to petitions filed with a city or town clerk under this section.

Nothing in this section shall prevent a town from acting under sections forty-seven, forty-seven B and forty-eight, or any of them.

SECTION 50. Nothing in this chapter shall repeal, amend or affect any special provision of law relative to any city or town, or extend to any city or town any provision of law to which it is not now subject.

GENERAL PENALTY

SECTION 51. (1971, c. 237.) The director may take any necessary and appropriate action to enforce the provisions of this chapter and the rules made thereunder. Any person who wilfully or negligently violates or conspires to violate any of such provisions or rules, or who knowingly makes an appointment or employs any person in violation of such provisions or rules, or who refuses or neglects to comply with any of such provisions or rules, shall be punished by a fine of not more than one thousand dollars or imprisonment for not more than one year, or both, unless some other penalty is specifically provided in this chapter.

EXTRACTS FROM SELECTED GENERAL LAWS AND SPECIAL ACTS

GENERAL LAWS, CHAPTER 4.

CLAUSE FORTY-THIRD OF SECTION 7 DEFINING VETERAN

SECTION 7. In construing statutes the following words shall have the meanings herein given, unless a contrary intention clearly appears:

(1955, c. 403; 1957, c. 164; 1960, c. 299, 544; 1965, c. 875; 1966, c. 716; 1967, c. 437; 1968, c. 531.) Forty-third, "Veteran" shall mean any person, male or female, including a nurse, (a) whose last discharge or release from his wartime service, as defined herein, was under honorable conditions and who (b) served in the army, navy, marine corps, coast guard, or air force of the United States for not less than ninety days active service, at least one day of which was for wartime service, provided that any person who so served in wartime and was awarded a service-connected disability or a Purple Heart, or who died in such service under conditions other than dishonorable, shall be deemed to be a veteran notwithstanding his failure to complete ninety-days of active service.

"Wartime service" shall mean service performed by a "Spanish War veteran", a "World War I veteran", a "World War II veteran", a "Korean veteran", a "Vietnam veteran", or a member of the "WAAC", as defined in this clause during any of the periods of time described herein or for which such medals described below are awarded.

"Spanish War veteran" shall mean any veteran who performed such wartime service between February fifteenth, eighteen hundred and ninety-eight and July fourth, nineteen hundred and two.

"World War I veteran" shall mean any veteran who (a) performed such wartime service between April sixth, nineteen hundred and seventeen and November eleventh, nineteen hundred and eighteen, or (b) has been awarded the World War I Victory Medal, or (c) performed such service between March twenty-fifth, nineteen hundred and seventeen and August fifth, nineteen hundred and seventeen, as a Massachusetts National Guardsman.

"World War II veteran" shall mean any veteran who performed such wartime service between September sixteenth, nineteen hundred and forty and December thirty-first, nineteen hundred and forty-six, except that for the purposes of chapter thirty-one it shall mean all active service between the dates of September sixteenth, nineteen hundred and forty and June twenty-fifth, nineteen hundred and fifty.

"Korean veteran" shall mean any veteran who performed such wartime service between June twenty-fifth, nineteen hundred and fifty and January thirty-first, nineteen hundred and fifty-five, both dates inclusive.

"Korean emergency" shall mean the period between June twenty-fifth, nineteen hundred and fifty and January thirty-first, nineteen hundred and fifty-five, both dates inclusive.

"Vietnam veteran" shall mean (1) any person who performed such wartime service during the period commencing August fifth, nineteen hundred and sixty-four and ending on a date to be determined by presidential proclamation and concurrent resolution of the congress of the United States or (2) any person who served at least one hundred and eighty days of active service in the armed forces of the United States during the period between February first, nineteen hundred and fifty-five and August fourth, nineteen hundred and sixty-four, except that any such person who served in said armed forces during said period and was awarded a service-connected disability or a Purple Heart, or who died in said service under conditions other than dishonorable, shall be deemed to be a veteran notwithstanding his failure to complete one hundred and eighty days of active service.

"WAAC" shall mean any woman who was discharged and so served in any corps or unit of the United States established for the purpose of enabling women to serve with, or as auxiliary to, the armed forces of the United States and such woman shall be deemed to be a veteran.

None of the following shall be deemed to be a "veteran":

(a) Any person who at the time of entering into the armed forces of the United States had declared his intention to become a subject or citizen of the United States and withdrew his intention under the provisions of the act of Congress approved July ninth, nineteen hundred and eighteen.

(b) Any person who was discharged from the said armed forces on his own application or solicitation by reason of his being an enemy alien.

(c) Any person who was designated as a conscientious objector upon his last discharge or release from the armed forces of the United States.

(d) Any person who has been proved guilty of wilful desertion.

(e) Any person whose only service in the armed forces of the United States consists of his service as a member of the coast guard auxiliary or as a temporary member of the coast guard reserve, or both.

(f) Any person whose last discharge or release from the armed forces is dishonorable.

"Armed forces" shall include army, navy, marine corps, air force and coast guard.

"Active service in the armed forces," as used in this clause shall not include active duty for training in the army national guard or air national guard or active duty for training as a reservist in the armed forces of the United States.

GENERAL LAWS, CHAPTER 6

APPOINTMENT OF TREASURERS AND ASSISTANT TREASURERS IN SOLDIERS' HOME IN HOLYOKE

SECTION 71. (1948, c. 476; 1969, c. 470; 1970, c. 888.) . . . He (superintendent) shall, subject to the approval of the board of trustees, appoint and may remove a treasurer and assistant treasurer, each of whom shall give bond for the faithful performance of his duties. The provisions of section forty-two of chapter thirty-one shall apply to the appointment of such treasurer and assistant treasurer.

GENERAL LAWS, CHAPTER 22.

APPOINTMENT OF PERSONS AS OFFICERS OR INSPECTORS OF THE DEPARTMENT OF PUBLIC SAFETY

SECTION 6A. (1961, c. 260.) No person who has been convicted of a felony shall be appointed as an officer or inspector of the department.

GENERAL LAWS, CHAPTER 30

VETERANS HOLDING UNCLASSIFIED POSITIONS; SEPARATION FROM STATE SERVICE

SECTION 9A. (1946, c. 269; 1947, c. 242.) A veteran, as defined in section twenty-one of chapter thirty-one, who holds an office or position in the service of the commonwealth not classified under said chapter thirty-one, other than an elective office, an appointive office for a fixed term or an office or position under section seven of this chapter, and has held such office or position for not less than three years, shall not be involuntarily separated from such office or position except subject to and in accordance with the provisions of sections forty-three and forty-five of said chapter thirty-one to the same extent as if said office or po-

sition were classified under said chapter. If the separation in the case of such unclassified offices or positions results from lack of work or lack of money, such a veteran shall not be separated from his office or position while similar offices or positions in the same group or grade, as defined in section forty-five of this chapter, exist unless all such offices or positions are held by such veterans, in which case such separation shall occur in the inverse order of their respective original appointments.

CERTAIN PERMANENT EMPLOYEES; ARBITRARY REMOVAL; PROTECTION

SECTION 9B. (1946, c. 524; 1950, c. 717; 1955, c. 643; 1960, c. 611; 1969, c. 838.) No person permanently employed in any institution under the department of mental health, public health, public welfare, correction or youth services, or in the soldiers' home in Massachusetts, except an employee, other than a nurse, rendering professional service, who is not classified under chapter thirty-one, and no maintenance employee permanently employed in any institution under the department of education, shall, after having actually performed the duties of any office or position continuously for a period of six months in such an institution or department, be discharged, removed, suspended, laid off, transferred from the latest permanent office or employment held by him without his consent, lowered in rank or compensation, nor shall his office or position be abolished, except for just cause and in the manner provided by sections forty-three and forty-five of chapter thirty-one. The provisions of section forty-six A of said chapter thirty-one shall apply to any person so employed.

TEACHERS OF CERTAIN STATE INSTITUTIONS; REMOVAL; LOWERING IN RANK

SECTION 9D. (1958, c. 538; 1969, c. 838.) No person permanently employed as a teacher in any institution under the department of mental health, public health, public welfare, correction, or youth services, who is not classified under chapter thirty-one, shall, after having served as such teacher for a period of three years in such institution, be discharged, removed, suspended, laid off, transferred without his consent, lowered in rank or compensation, nor shall his office or position be abolished, except for just cause and in the manner provided by sections forty-three and forty-five of said chapter thirty-one.

ASSIGNMENT OF A STATE EMPLOYEE FROM A LOWER GRADE TO A HIGHER GRADE

SECTION 24B. (1957, c. 753; 1962, c. 757.) Whenever an employee in a lower grade is assigned the duties of a position in a higher grade for a period of thirty days or longer, the appointing officer shall, if a vacancy exists or is to exist for the position in the higher grade, forthwith submit to the bureau of personnel and standardization a requisition for approval of the appointment of such employee to such position. Upon approval of the bureau of personnel and standardization, said bureau shall, if the position is subject to the civil service law and rules, forthwith transmit such requisition to the director of civil service. The approval of the director of civil service of such an appointment shall, if given, take effect as of the earliest date, as determined by the director, that the director could have approved the appointment if acted upon by him on the date the appointment was made, but in no case shall the director approve an appointment to take effect earlier than sixty days next preceding the date of the receipt of said requisition by him.

This section shall not apply to assignment of a person to cover a higher position when the holder of the higher grade position is absent on vacation leave, but shall apply when the holder of such higher graded position is on sick leave.

**PERSONS UNDER INDICTMENT FOR MISCONDUCT IN OFFICE;
SUSPENSION; TEMPORARY APPOINTEES**

SECTION 59. (1962, c. 798; 1963, c. 829; 1964, c. 528.) An officer or employee of the commonwealth, or of any department, board, commission or agency thereof, or of any authority created by the general court, may, during any period such officer or employee is under indictment for misconduct in such office or employment or for misconduct in any elective or appointive public office, trust or employment at any time held by him, if he was appointed by the governor, be suspended by the governor, whether or not such appointment was subject to the advice and consent of the council or, if he was appointed by some other appointing authority, be suspended by such authority, whether or not such appointment was subject to approval in any manner. Notice of said suspension shall be given in writing and delivered in hand to said person or his attorney, or sent by registered mail to said person at his residence, his place of business, or the office or place of employment from which he is being suspended. Such notice so given and delivered or sent shall automatically suspend the authority of said person to perform the duties of his office or employment until he is notified in like manner that his suspension is removed. A copy of any such notice together with an affidavit of service shall be filed with the state secretary.

Any person so suspended shall not receive any compensation or salary during the period of such suspension, nor shall the period of his suspension be counted in computing his sick leave or vacation benefits or seniority rights, nor shall any person who retires from service while under such suspension be entitled to any pension or retirement benefits, notwithstanding any contrary provisions of law, but all contributions paid by him into a retirement fund, if any, shall be returned to him.

A suspension under this section shall not, in any way, be used to prejudice the rights of the suspended person either civilly or criminally. During the period of any such suspension, the appointing authority may fill the position of the suspended officer or employee on a temporary basis, and the temporary officer or employee shall have all the powers and duties of the officer or employee suspended.

Any such temporary officer or employee who is appointed as a member of a board, commission or agency of the commonwealth, or of any Authority created by the general court, of which the governor is empowered to designate the chairman from time to time, may be designated as such chairman by the governor.

If the criminal proceedings against the person suspended are terminated without a finding or verdict of guilty on any of the charges on which he was indicted, his suspension shall be forthwith removed, and he shall receive all compensation or salary due him for the period of his suspension, and the time of this suspension shall count in determining sick leave, vacation, seniority and other rights, and shall be counted as creditable service for purposes of retirement.

**EMPLOYMENT BY THE COMMONWEALTH OF STUDENTS IN
CO-OPERATIVE EDUCATION PROGRAMS**

SECTION 60. (1968, c. 203.) The director of the bureau of personnel shall cooperate with public and private colleges, universities and other institutions of higher education, which grant degrees and which provide facilities for educating students on the so-called "co-operative plan" of education whereby work-study programs are so developed and maintained that students enrolled therein may be employed in the service of the commonwealth in positions appropriate to their major academic interests. The employment of such students in positions classified under section forty-five shall be approved by the director of the bureau of personnel. The employment of such students in said positions shall, upon certification to the director of civil service by a representative of such a college, uni-

versity or institution that such student is enrolled therein under a "co-operative plan" of education, not be subject to the provisions of chapter thirty-one; provided that employment by the commonwealth of a student under such plan is for a stated and limited time.

GENERAL LAWS, CHAPTER 30A.

DEFINITIONS

SECTION 1.
 (2) (1954, c. 681; 1959, c. 511; 1965, c. 725; 1968, c. 120; 1969, c. 838.)
 "Agency" includes any department, board, commission, division or authority of the state government, or subdivision of any of the foregoing, or official of the state government, authorized by law to make regulations or to conduct adjudicatory proceedings, but does not include the following: the legislative and judicial departments; the governor and council; military or naval boards, commissions or officials; the department of correction; the department of youth services; the parole board; the division of industrial accidents of the department of labor and industries; the division of child guardianship of the department of public welfare; the division of civil service; and the director of civil service; and the appellate tax board. . . .

GENERAL LAWS, CHAPTER 40.

ENFORCEMENT OF LAWS RELATING TO CIVIL SERVICE

SECTION 8. A city, or a town which accepts chapter thirty-one or has accepted corresponding provisions of earlier laws, may appropriate money for the enforcement therein of the laws relating to its civil service.

GENERAL LAWS, CHAPTER 41.

ALL PAYROLLS, BILLS AND ACCOUNTS FOR COMPENSATION OF PERSONS IN THE SERVICE OF ANY CITY OTHER THAN BOSTON SHALL BE VERIFIED BY OATH

SECTION 41. (1968, c. 168.) No treasurer or other fiscal officer of any town or city, other than Boston, shall pay any salary or compensation to any person in the service or employment of the town or city unless the payroll, bill or account for such salary or compensation shall be sworn to by the head of the department or the person immediately responsible for the appointment, employment, promotion or transfer of the persons named therein, or, in the case of the absence or disability of the head of the department or of such person, then by a person designated by the head of the department and approved by the board of selectmen in towns, and by the mayor in cities, or by the city manager in cities operating under a Plan D or Plan E charter. A commission, committee or board of trustees in a city or town, including a city council, board of aldermen or common council in a city, may for purposes of this section designate any one of its members to make oath to a payroll, bill or account for salary or compensation of its members or employees. This provision shall not limit the responsibility of each member of any such body in the event of a noncompliance with this section.

SECTION 42. (1959, c. 299.) Every such payroll, bill or account shall contain the following information: First, full name of each employee; second, title of office or position authorized by the division of civil service wherever applicable, otherwise title authorized by appointing authority; third, salary, wages or other compensation; fourth, dates of employment.

SECTION 43. Each appointing, employing or other officer, who wilfully refuses or neglects to comply with any provision of the two preceding sections shall be punished by a fine of not less than twenty-five nor more than one hundred dollars.

TOWN ACCOUNTANT

SECTION 55. Any town may authorize the selectmen to appoint a town accountant, who shall perform the duties and possess the powers of town auditors as defined in sections fifty to fifty-three, inclusive. In towns so authorizing the appointment of a town accountant the office of town auditor may, if the town so vote, be abolished. In towns which have accepted chapter thirty-one or corresponding provisions of earlier laws, the appointment of the town accountant shall be subject to the civil service rules. The town accountant shall be sworn to the faithful performance of his duties, shall hold no other town office involving the receipt or disbursement of money, and shall hold office for three years and until his successor is qualified; provided, that the town clerk, if he holds no other office involving the receipt or disbursement of money, may be appointed town accountant.

APPOINTMENT OF PERSONS TO THE POLICE FORCES OR DEPARTMENTS OF CITIES, TOWNS AND DISTRICTS

SECTION 96A. (1938, c. 342.) No person who has been convicted of any felony shall be appointed as a police officer of a city, town or district.

MASSACHUSETTS POLICE TRAINING COUNCIL AND POLICE OFFICERS IN CITIES AND IN CERTAIN TOWNS TO ATTEND A POLICE TRAINING SCHOOL

SECTION 96B. (1964, c. 564; 1967, c. 504; 1968, c. 742; 1969, c. 252; 1971, c. 172; 1972, c. 697.) Every person who receives an appointment as a regular police officer on a permanent full-time basis in any city or in any town, the metropolitan district commission police, the Massachusetts Bay Transportation Authority police, the capitol police or as an employee of the registry of motor vehicles having police powers shall, within nine months of the date of his appointment, be assigned to and shall attend a police training school approved by the Massachusetts police training council for a course of study lasting at least six weeks and shall satisfactorily complete such course. Any such police officer attending such school shall be paid his wages as police officer. He shall also receive such reasonable expenses as may be determined by the appointing authority. Any such police officer who through his own fault fails to complete his course of study satisfactorily shall be removed from the police force by the appointing authority.

Every regular police officer on a permanent full-time basis in any such city or town, the metropolitan district commission police, the Massachusetts Bay Transportation Authority police, the capitol police or an employee of the registry of motor vehicles having police powers shall be assigned to and shall attend a police training school approved by the Massachusetts police training council for the purpose of completing an approved course of study of an in-service training at such intervals and for such periods of time as the council may determine. Any such police officer who receives an appointment to a position of higher rank shall, in addition, complete such other courses of supervisory training as the council may determine. While attending such school or completing such courses, such person shall be paid his regular wages as a police officer and shall receive such reasonable expenses as may be determined by the appointing authority.

RESIDENCE OUTSIDE CITY OR TOWN FOR MEMBERS OF REGULAR POLICE DEPARTMENT

SECTION 99A. (1965, c. 411; 1971, c. 956.) The members of the regular police department of a city or town may reside outside said city or town; provided, they reside within the commonwealth and within ten miles of the limits of said city or town.

SALARY PLAN FOR CERTAIN EMPLOYEES

SECTION 108A. (1947, c. 540; 1948, c. 351; 1960, c. 87; 1969, c. 12, 849.) A city by ordinance and a town by by-law may establish, and from time to time amend, a plan classifying any or all positions, other than those filled by popular election and those under the direction and control of the school committee, into groups and classes doing substantially similar work or having substantially equal responsibilities. Such city or town may in like manner or in a city by vote of the city council, subject to the provisions of its charter, and in a town by vote of the town at a town meeting, establish, and from time to time amend, a plan establishing minimum and maximum salaries to be paid to employees in positions so classified, and such salary plan may provide for the attainment of such maximum salaries by periodical step-rate increases based on length of service. Nothing in this section shall be construed to conflict with the provisions of chapter thirty-one. Any by-law adopted under the provisions of this section shall not be subject to section thirty-two of chapter forty.

In any city or town for which a classification plan has been established in accordance with the provisions of paragraph (b) of section two A of said chapter thirty-one, the city or town affected thereby shall, within one year after receiving notice from the director of the effective date of such classification plan or of said amendment or change, establish, amend or change a compensation plan, as the case may be, with a minimum and maximum salary, in accordance with the class and grade, for each position. No rule or regulation or change in rules or regulations shall be promulgated as a part of any such compensation plan except after a public hearing held not less than two weeks nor more than two months after notice thereof shall have been posted in a conspicuous place in the city or town hall and in at least five other convenient and conspicuous places and shall also have been published on one or more days in one or more newspapers having a circulation in the city or town. Every notice posted shall contain, or have subjoined or annexed thereto, a copy of the proposed rule or regulation. If such rule or regulation or change therein is to be adopted by vote of the town or by by-law, the publication of the proposed rule, regulation or change in the warrant for the town meeting shall be deemed to satisfy the requirements of this paragraph.

SECTION 108H. (1966, c. 33.) In any city or town which accepts the provisions of this section, a member of the fire department assigned to photographic work in said department shall, after completing one year's service in such assignment, receive in addition to his annual salary as a fire fighter a salary increase of six hundred dollars a year, to be paid so long as he is assigned to said photographic work.

SECTION 108I. (1966, c. 33.) In any city or town which accepts the provisions of this section, a member of the police department assigned to photographic or fingerprint identification work in said department shall, after completion of one year's service in such assignment, receive in addition to his annual salary as a police officer a salary increase of six hundred dollars a year, to be paid him so long as he is assigned to said photographic or fingerprint identification work.

SECTION 108J. (1966, c. 129.) In any city or town which accepts this section, male and female employees in classified civil service employed in the same grades who, in the opinion of the director of civil service, are doing the same type of work with the same preparation and training shall receive equal pay.

SECTION 108K. (1966, c. 499.) A female regular police officer in a city or town shall receive compensation equal, in all respects, to the compensation received by a male regular police officer of equal rank and seniority.

LEAVE WITHOUT LOSS OF PAY FOR CERTAIN INCAPACITATED POLICE OFFICERS AND FIRE FIGHTERS

SECTION 111F. (1952, c. 419; 1958, c. 266; 1961, c. 218; 1964, c. 149.) Whenever a police officer or fire fighter of a city, town, or fire or water district is incapacitated for duty because of injury sustained in the performance of his duty without fault of his own, or a police officer or fire fighter assigned to special duty by his superior officer, whether or not he is paid for such special duty by the city or town, is so incapacitated because of injuries so sustained, he shall be granted leave without loss of pay for the period of such incapacity; provided, that no such leave shall be granted for any period after such police officer or fire fighter has been retired or pensioned in accordance with law or for any period after a physician designated by the board or officer authorized to appoint police officers or fire fighters in such city, town or district determines that such incapacity no longer exists. All amounts payable under this section shall be paid at the same times and in the same manner as, and for all purposes shall be deemed to be, the regular compensation of such police officer or fire fighter. This section shall also apply to any member of a fire department who is subject to the provisions of chapter one hundred and fifty-two if he is injured at a fire and if he waives the provisions of said chapter.

GENERAL LAWS, CHAPTER 43.

EMPLOYEES IN MAYOR'S OFFICE NOT SUBJECT TO CIVIL SERVICE

SECTION 25. The civil service laws shall not apply to the appointment of the mayor's secretaries or of the stenographers, clerks, telephone operators and messengers connected with his office, and the mayor may remove such appointees without a hearing and without making a statement of the cause of their removal.

GENERAL LAWS, CHAPTER 48.

PROMOTION OF CALL FIREMEN IN THE FIRE DEPARTMENT OF CITIES AND TOWNS

SECTION 36. Any town which has accepted chapter four hundred and eighty-seven of the acts of nineteen hundred and thirteen, and has a call or part call fire department which now is or may hereafter be subject to chapter thirty-one, may, on the recommendation of the board of engineers of the fire department or of the officer or board having charge of the fire department, promote to membership in the permanent force, without civil service examination and without any probationary period of service required under said chapter thirty-one and the rules and regulations made thereunder, any persons then in the call or part call fire department who have served as call men or part call men or substitute call men for five or more successive years, and who are certified to be competent physically for the duty by the town physician, if any, otherwise by a physician designated therefor by the board of engineers or other authority, as aforesaid.

SECTION 36A. (1948, c. 149.) Any town which has not accepted chapter four hundred and eighty-seven of the acts of nineteen hundred and thirteen and shall accept this section by vote of the town at a town meeting, and has a call or part call fire force which now is or may hereafter be subject to chapter thirty-one, may, on the recommendation of the appointing officer of the fire department, promote to membership in the regular or permanent force, without civil service examination and without any probationary period of service required under said chapter thirty-one and the rules made thereunder, any persons then in the call or part call fire force who have served as call men or part call men or

substitute call men for five or more successive years, and who are certified to be competent physically for the duty by the town physician, if any, otherwise by a physician designated therefore by said appointing officer. Appointments from the call force to the regular or permanent force shall be made by the appointing officer upon certification by the director of civil service from the list of members of the call force of firemen, in accordance with the rules of the civil service commission, except that the basis of certification shall be the order of appointment to the call force, or, if not ascertainable, the order of the respective ratings of such members obtained in the examination upon which the list of eligibles for appointment to such call force was based. No person who has passed his fiftieth birthday shall be appointed from such a call force to such a regular or permanent force.

SECTION 37. (1948, c. 149.) The provisions of section thirty-six or section thirty-six A shall not apply to any town in which the promotion of callmen to the permanent or regular force is regulated by a special act relating to such town, nor to Boston.

RESIDENCE OUTSIDE CITY OR TOWN FOR MEMBERS OF REGULAR FIRE DEPARTMENT

SECTION 58E. (1966, c. 272; 1972, c. 370.) In any city or town which accepts this section, applicants for positions in and members of the regular fire department of said city or town may reside outside said city or town; provided, they reside within the commonwealth and within ten miles of the limits of said city or town.

RESERVE FIRE FORCES IN CITIES

SECTION 59B. Any city, except Boston, in which the city council, with the approval of the mayor, accepts this and the two following sections, may establish a reserve force of firemen in its fire department; and appointments thereto and removals therefrom shall, subject to chapter thirty-one, be made in the same manner as appointments to the regular or permanent force of the fire department of said city.

SECTION 59C. The number of members of such reserve force shall not exceed five in cities in which the number of members of the regular force does not exceed fifteen. If the number of members of the regular force exceeds fifteen, one member may be added to the reserve force for every three of the regular force above fifteen and not above thirty; one for every five of the regular force above thirty and not above eighty; and one for every ten of the regular force above eighty.

SECTION 59D. The mayor, chief of the fire department or the officer or board having charge of the said department in a city wherein such reserve force is established may assign the members thereof to duty in the said department whenever and for such length of time as he or it may deem necessary. The compensation of the members of said reserve force shall be fixed by the city council. Except as provided in this and the two preceding sections, no provision of law applicable to the regular or permanent fire force of the fire department of a city shall apply to such reserve force or the members thereof except when assigned to duty as aforesaid.

ABOLITION OF RESERVE FIRE FORCES IN CITIES AND TOWNS

SECTION 59E. (1939, c. 419.) In any city which has accepted sections fifty-nine B to fifty-nine D, inclusive, and accepts this section, and in any city or town which has a reserve force of firemen under authority of special law and accepts this section, no person shall, after the date of acceptance of this section, be appointed to the reserve force of firemen thereof unless appointments to such force

are subject to chapter thirty-one and the name of such person shall have been placed, on or before said date, on an eligible list established under said chapter and the rules made thereunder for such appointments.

GENERAL LAWS, CHAPTER 54.

FORM OF QUESTION TO BE USED BY CITIES AND TOWNS IN PLACING PROVISIONS OF THE GENERAL LAWS ON THE BALLOT FOR ACCEPTANCE BY THE VOTERS

SECTION 58A. (1956, c. 180; 1959, c. 43; 1964, c. 256.) Whenever any provision of the General Laws, submitted for acceptance to the voters of a city or town, is to be placed on the ballot at any election, the city or town clerk shall place it on the ballot in the following form:— “Shall this (city or town) accept the provisions of section (here insert section number*) of chapter (here insert chapter number) of the General Laws, a fair and concise summary of which appears below?” (Set forth here

YES	
NO	

a fair, concise summary and purpose of the law to be acted upon, as determined by the city solicitor or town counsel, as the case may be.) If a majority of the voters voting on said question vote in the affirmative, then said provisions shall take effect in said city or town, but not otherwise.

The provisions of this section relative to the form of submitting for acceptance to the voters of a city or town of any provision of the General Laws shall not apply to the submission for acceptance of any provision of the General Laws in which or in the act creating such provision there is set forth the form in which the question of the acceptance shall be submitted to the voters.

The final date for notifying, or filing a petition with, the city or town clerk or the state secretary to place such a question on the ballot shall be, if no final date is otherwise provided, thirty-five days before the city or town election or sixty days before the state election.

GENERAL LAWS, CHAPTER 71.

PUBLIC SCHOOLS — INSTRUCTIONAL AIDES

SECTION 38. (1965, c. 164; 1970, c. 780.) An “instructional aide”, as used in this section, shall be a person who is employed on subprofessional teaching duties, as opposed to noninstructional duties including clerical work and the care of school children during school hours, under the direction of a teacher and shall not be subject to the provisions of chapter thirty-one; provided, however, that no such aide shall be appointed to or employed in duties in any office or position which is classified under the civil service law and rules.

REGIONAL SCHOOL DISTRICTS

SECTION 42B. (1970, c. 491; 1971, c. 307.)

Any employee subject to the provisions of chapter thirty-one, employed by the school committee of a town, whose position is superseded by reason of the establishment and operation of a regional school district shall be employed by the regional district school committee without loss of any civil service or other rights previously acquired by him.

This section shall also apply to all school personnel serving at the discretion of local trustees for vocational education, and any such school personnel whose positions are superseded by reason of the establishment and operation of a regional school district shall be elected by the regional district school committee to serve at its discretion.

*Note:

When accepting any provision of chapter 31, in addition to inserting the section number, it is also necessary to insert sufficient words to make it clear which provision or provisions of the section the vote will cover.

GENERAL LAWS, CHAPTER 90.

QUALIFICATIONS FOR AMBULANCE DRIVERS OR ATTENDANTS

SECTION 7F. (1957, c. 136; 1964, c. 164; 1967, c. 219.) No person shall operate an ambulance transporting a sick or injured person unless he, or an attendant thereon, within the five year period preceding such operation, has successfully completed the standard or the advanced Red Cross course of first aid training, or training and instruction equivalent to such course and has been so certified by the Red Cross or by a registered physician or licensed hospital, as the case may be. No owner or custodian of an ambulance shall permit the same to be operated in transporting a sick or injured person unless the operator, or an attendant thereon, is qualified as set forth in this section.

MAXIMUM AGE OF MOTOR VEHICLE EXAMINERS.

SECTION 29. (. 1970, c. 534; 1972, c. 105.) The registrar shall appoint competent persons to act as investigators, examiners and safety instructors, may remove them for cause, and may define their duties. An applicant who has passed his thirty-fifth birthday shall not be appointed as an examiner; provided, however, that if such applicant has not attained age thirty-five at the time he took the examination and is otherwise eligible, he shall be certified for appointment as an examiner.

GENERAL LAWS, CHAPTER 90D.

MOTOR VEHICLE CERTIFICATES OF TITLE.

SECTION 29. (1971, c. 754, 1972, c. 756.)

Officers and employees engaged in carrying out the provisions of this chapter shall be exempt from the provisions of chapter thirty-one; provided, however, that officers or employees who are subject to said chapter thirty-one may be assigned by the registrar to assist in the administration of the provisions of this chapter whenever he deems it to be necessary. Nothing in this paragraph shall be deemed to authorize any person engaged to carry out the provisions of this chapter to be assigned to or be employed in any office or position subject to said chapter thirty-one.

GENERAL LAWS, CHAPTER 123.

APPOINTMENT OF TREASURERS AND ASSISTANT TREASURERS
IN DEPARTMENT OF MENTAL HEALTH

SECTION 28. (1945, c. 638; 1954, c. 598; 1957, c. 482; 1962, c. 564; 1964, c. 342; 1969, c. 667, 736.) . . . The superintendent shall appoint and may remove a treasurer and assistant treasurer in each state hospital, each of whom shall give bond for the faithful performance of his duties. The provisions of section forty-two of chapter thirty-one shall apply to the appointment of such treasurers and assistant treasurers. . . .

GENERAL LAWS, CHAPTER 125.

CERTAIN APPOINTMENTS IN CORRECTIONAL INSTITUTIONS

SECTION 4. (1955, c. 770; 1957, c. 50; 1966, c. 165; 1967, c. 30.) In certifying the names of male persons eligible for appointment as correction officers in said institutions, the director of civil service shall certify the names of persons who at the time of examination were over the age of twenty-one and under the age of thirty-five.

SECTION 9. (1955, c. 770; 1957, c. 494; 1960, c. 201; 1961, c. 90; 1964, c. 348; 1972, c. 777.)

The commissioner shall establish a training academy in cooperation with the municipal police training council and using their facilities and programs where appropriate and such other courses or places of training as he deems necessary for the training of correction officers, other employees of the department, persons appointed as correction officer trainees in accordance with this section and, by agreement, officers of county correctional facilities. The commissioner may appoint as a correction officer trainee, for a period of full-time training including on-the-job training, any citizen of the commonwealth who meets the qualifications required of applicants for appointment to the position of correction officer. Appointment to the position of correction officer trainee shall not be subject to section nine A and nine B of chapter thirty, or chapter thirty-one, nor shall a correction officer trainee be entitled to any benefits of such laws or civil service rules. Such appointment may be terminated in accordance with such conditions as the commissioner may prescribe. A correction officer trainee shall receive such compensation and such leave with pay as the commissioner shall determine and shall be considered an employee of the commonwealth for the purposes of workman's compensation. Upon successful completion of training, a correction officer trainee shall be appointed, if a vacancy exists, to the position of provisional correction officer, provided there is no suitable civil service eligible list for correction officer.

A correction officer trainee shall not be subject to or entitled to the benefits of any retirement or pension law nor shall any deduction be made from his compensation for the purpose thereof; but a correction officer trainee who during the period of his training or provisional appointment status passes a competitive civil service examination for appointment to the department of correction and is appointed a permanent full-time correction officer shall have his trainee service considered as "creditable service" for purposes of retirement, provided he pays into the annuity savings fund of the retirement system such amount as the retirement board determines equal to that which he would have paid had he been a member of said retirement system during the period of his training.

In accordance with civil service laws and rules the division of civil service shall certify the names of applicants from an established list for correction officers to the commissioner who shall appoint said applicants as correction officers. Newly appointed correction officers who have not successfully completed training as correction officer trainees shall be assigned to a period of training as the commissioner shall prescribe. Notwithstanding any civil service law or rules, a correction officer must serve a probationary period of nine months before becoming a full-time permanent employee of the department. Time spent in training shall be considered a part of the probationary period.

Notwithstanding any provision of law to the contrary, but subject, however, to the provisions of section sixty of chapter one hundred and nineteen, no person who has been convicted of a felony, or who has been confined in any jail or house of correction, shall be appointed to any position in the department of correction unless the commissioner certifies that such appointment will contribute substantially to the work of the department, except that in no case shall such a person be appointed to the position of correction officer, superintendent, deputy superintendent, assistant superintendent, or any other position involving the regulation of state or county correctional facilities.

The commissioner may expend such sums as may be appropriated or otherwise received to maintain and operate the training academy and other training centers and programs and maintain trainees and employees during any period of training.

GENERAL LAWS, CHAPTER 127.

CERTAIN APPOINTMENTS IN PRISON CAMPS

SECTION 83D. (1951, c. 755; 1961, c. 482.) The commissioner shall appoint a director of prison camps and such other prison camp officers as he shall deem necessary. All offices and positions in the prison camps shall be filled in accordance with the provisions of chapter thirty-one, except that offices and positions which require the care, custody and control of prisoners shall be filled by promotion or transfer from among the employees of the department of correction in accordance with the provisions of said chapter.

The director of prison camps shall have the care, custody and control of all prisoners removed to any camp. Purchases and sales on account of any camp shall, if authorized by the state purchasing agent, be made by the director with the approval of the commissioner.

GENERAL LAWS, CHAPTER 142.QUALIFICATIONS FOR APPOINTMENT OF INSPECTORS OF PLUMBING
IN CITIES AND IN TOWNS

SECTION 11. (1945, c. 703; 1954, c. 627.) The said inspector of buildings, if any, otherwise the board of health, of each city and town, shall, within three months after it becomes subject to sections one to sixteen, inclusive, appoint from the classified civil service list one or more inspectors of plumbing who shall be practical plumbers and shall have had practical experience either as master plumbers or journeymen, continuously, during five years next preceding their appointment; provided, that any time spent in wartime service as defined in clause Forty-third of section seven of chapter four shall be deemed a part of the continuous practical experience so required. Such inspector of buildings or board may remove them subject to chapter thirty-one, and shall, subject to approval of the city council or selectmen, fix their compensation, which shall be paid by the city or town. Said inspectors of plumbing shall inspect all plumbing in process of construction, alteration or repair for which permits are granted within their respective cities and towns, and shall report to their appointing power or board violations of any law, ordinance, by-law, rule or regulation relative to plumbing; they shall perform such other appropriate duties as may be required. The approval of plumbing by any inspectors other than those provided for by this chapter shall not be a compliance therewith.

GENERAL LAWS, CHAPTER 147.

RESERVE POLICE FORCE IN CITIES

SECTION 11. (1967, c. 85.) Any city in which the city council, with the approval of the mayor, accepts this and the two following sections or has accepted corresponding provisions of earlier laws, may establish a reserve police force; and appointments thereto shall, subject to chapter thirty-one, be made in the same manner as appointments to the regular police force of said city.

SECTION 12. The number of members of such reserve force shall not exceed five in cities in which the number of members of the regular force does not exceed fifteen. If the number of members of the regular force exceeds fifteen, one member may be added to the reserve force for every three of the regular force above fifteen and not above thirty; one for every five of the regular force above thirty and not above eighty; and one for every ten of the regular force above eighty.

SECTION 13. The mayor, chief of police or city marshal of a city in which such reserve force is established may assign the members thereof to duty in said city whenever and for such length of time as said mayor, chief of police or marshal may deem necessary; and when on duty the members of said reserve force shall have all the powers and duties of members of the regular police force of said city. The compensation of the members of said reserve force shall be fixed by the city council.

RESERVE POLICE FORCE IN TOWNS

SECTION 13A. A town having an organized police force or department, other than a town in which a reserve police force is established under special law, which accepts the provisions of this section, may establish a reserve police force consisting of such number of members as the town may determine. Appointments to such force shall be made in the same manner and subject to the same provisions of law as appointments to its regular police force. Members of said reserve force may be removed by the selectmen at any time for any reason satisfactory to them and shall be subject to such rules and regulations as the selectmen may prescribe. Said members shall, when on duty, have all the powers and duties of members of the regular police force of said town and shall be paid by the town such compensation as the selectmen may fix.

ABOLITION OF RESERVE POLICE FORCES IN CITIES AND TOWNS

SECTION 13B. (1939, c. 419.) In any city which has accepted sections eleven to thirteen, inclusive, or the corresponding provisions of earlier laws, or has a reserve police force under authority of special law, and accepts this section, no person shall, after the date of acceptance of this section, be appointed to the reserve police force thereof unless the name of such person shall have been placed, on or before said date, on an eligible list established under chapter thirty-one and the rules made thereunder for such appointments.

SECTION 13C. (1939, c. 419.) In any town which has accepted section thirteen A, or has a reserve police force under authority of special law, and accepts this section, no person shall, after the date of acceptance of this section, be appointed to the reserve police force thereof unless appointments to such force are subject to chapter thirty-one and the name of such person shall have been placed, on or before said date, on an eligible list established under chapter thirty-one and the rules made thereunder for such appointments.

POLICE CADETS

SECTION 21A. (1967, c. 430.) The board or officer in a city or town authorized to appoint police officers for such city or town may, when so authorized, in a city having a Plan E charter, by the affirmative vote of a majority of the city council, in any other city, by vote of the city council subject to the provisions of its charter, and in a town, by a majority vote at an annual town meeting, appoint as a police cadet, for a period of full-time "on the job" training, any citizen resident in such city or town who is not less than eighteen nor more than twenty-three years of age, who meets the physical qualifications required of applicants for appointment to the police force in such city or town, and who is determined by the appointing authority to be of good moral character. Such appointment shall not be subject to the civil service law or rules; nor shall a police cadet be entitled to any benefits of such law or rules. Such appointment may be terminated by the appointing authority at any time, and shall be terminated whenever a cadet fails to maintain a passing grade in any course of study the appointing authority determines he should undertake, and when he reaches the age of twenty-three. A police cadet shall receive such compensation and such leave with pay as the appointing authority shall determine.

A police cadet shall maintain and file records, operate office machines, answer

telephones, receive complaints, enter and index official documents, prepare routine reports, prepare and tabulate facts and figures for statistical purposes, and have similar duties of an administrative rather than an enforcement type. He shall not carry arms, nor shall he have any power of arrest other than that of an ordinary citizen. He shall be considered an employee of the city or town for the purposes of workmen's compensation.

A police cadet shall not be subject to or entitled to the benefits of any retirement or pension law nor shall any deduction be made from his compensation for the purpose thereof; but a police cadet who during the period of his "on the job training" passes a competitive civil service examination for appointment to the police force of such city or town, and is appointed a permanent full-time police officer, shall have his police cadet service considered as "creditable service" for purposes of retirement, provided he pays into the annuity savings fund of the retirement system such amount as the retirement board determines equal to that which he would have paid had he been a member of said retirement system during the period of his training as a police cadet.

GENERAL LAWS, CHAPTER 149

DISCRIMINATION IN EMPLOYMENT AGAINST REHABILITATED HANDICAPPED PERSONS FORBIDDEN

SECTION 24K. (1972, c. 532.) Whoever, personally or by an agent, shall dismiss from employment or refuse to hire, solely because of his handicap, any rehabilitated handicapped person who possesses the physical and mental capacity to perform the functions required by said employment shall be punished by a fine of not less than twenty-five nor more than two hundred dollars.

AUTHORITY AND POWER OF THE CIVIL SERVICE COMMISSION NOT DIMINISHED BY COLLECTIVE BARGAINING

SECTION 178I. (. 1969, c. 341; 1970, c. 340.) In the event that any part or provision of any such agreement is in conflict with any law, ordinance or by-law, such law, ordinance or by-law shall prevail so long as such conflict remains; provided, however, that the provisions of any such agreement shall prevail over any regulation made by a chief of police pursuant to section ninety-seven A of chapter forty-one or by the chief or other head of a fire department under the provisions of chapter forty-eight.

LAW, ORDINANCE OR BY-LAW SHALL PREVAIL OVER ANY PROVISION OF A MUNICIPAL COLLECTIVE BARGAINING AGREEMENT

SECTION 178N. (1965, c. 763.) Nothing in sections one hundred and seventy-eight F to one hundred and seventy-eight M, inclusive, shall diminish the authority and power of the civil service commission, or any retirement board or personnel board established by law, nor shall anything in said sections constitute a grant of the right to strike to employees of any municipal employer.

GENERAL LAWS, CHAPTER 151B.

UNLAWFUL DISCRIMINATION BY THE USE OF CERTAIN CRIMINAL RECORDS AGAINST PERSONS SEEKING EMPLOYMENT

SECTION 4. It shall be an unlawful practice:

9. (1969, c. 314; 1972, c. 428.) For an employer, himself or through his agent: (A) to refuse to hire or employ, or to bar or discharge from employment, any person by reason of his or her failure to furnish information regarding his or her first

arrest for any misdemeanor or felony wherein no conviction resulted, wherein his or her case has been dismissed for want of prosecution, wherein a finding or verdict of not guilty has resulted, wherein his or her case has been continued without a finding for a certain period of time and then dismissed, or wherein the arrests were for the following misdemeanors: — drunkenness, simple assault, speeding, minor traffic violations, affray or disturbance of the peace; provided, that the date of disposition of said offenses was five years or more prior to the date of such refusal, barring from employment or discharge; (B) to refuse to hire or employ, or to bar or discharge from employment, any person by reason of his failure to furnish information regarding his conviction of any misdemeanor where such conviction occurred more than five years prior to the date of such refusal, barring from employment or discharge, unless such person was punished by imprisonment, or unless such individual has been convicted of any offense within five years of such date. An application form for employment which contains an inquiry as to the police record of the applicant shall include a statement that no applicant shall be required to furnish any information of his or her first arrest for any misdemeanor or felony which did not result in a conviction, unless court action is pending, nor shall such applicant be required to furnish information on any complaint which was dismissed for want of prosecution or which resulted in the case being continued without a finding for a certain period of time and then dismissed, or which resulted in a finding or verdict of not guilty, nor shall such applicant be required to furnish any information of arrests for the following misdemeanors: — drunkenness, simple assault, speeding, minor traffic violations, affray or disturbance of the peace; provided, that the date of disposition of said offenses was five years or more prior to the filing of said application; and that no applicant shall be required to furnish any information concerning any conviction of a misdemeanor which occurred more than five years prior to the date of such application for employment unless the applicant was sentenced to imprisonment upon conviction of such misdemeanor, or such individual has been convicted of any offense within five years of such date.

Nothing herein contained shall be construed to bar the application of section thirty-four of chapter ninety-four C relative to the expungement of records.

GENERAL LAWS, CHAPTER 268.

COERCION TO REFUSE APPOINTMENT OR PROMOTION

SECTION 8B. (1961, c. 342.) Any appointing authority or appointing officer, both as defined in chapter thirty-one, who, by himself or by some other person acting on his behalf, compels, or induces by the use of threats or other form of coercion, any person on an eligible list, as defined in chapter thirty-one, to refuse an appointment or promotion by such authority or officer to any position in the classified civil service shall be punished by a fine of not less than fifty nor more than two hundred dollars or by imprisonment in a jail or house of correction for not more than two months, or by both such fine and imprisonment.

GENERAL LAWS, CHAPTER 268A.

MEMBERS OF COUNTY OR MUNICIPAL COMMISSIONS OR BOARDS PROHIBITED FROM BEING APPOINTED OR ELECTED BY OTHER MEMBERS THEREOF TO CERTAIN POSITIONS

SECTION 21A. (1967, c. 887.) Except as hereinafter provided, no member of a municipal commission or board shall be eligible for appointment or election by the members of such commission or board to any office or position under the supervision of such commission or board. No former member of such commission or board shall be so eligible until the expiration of thirty days from the termination of his service as a member of such commission or board.

The provisions of this section shall not apply to a member of a town commission or board, if such appointment or election has first been approved at an annual town meeting of the town.

SECTION 25. (1972, c. 257.) An officer or employee of a county, city, town or district, howsoever formed, including, but not limited to, regional school districts and regional planning districts, or of any department, board, commission or agency thereof may, during any period such officer or employee is under indictment for misconduct in such office or employment or for misconduct in any elective or appointive public office, trust or employment at any time held by him, be suspended by the appointing authority, whether or not such appointment was subject to approval in any manner. Notice of said suspension shall be given in writing and delivered in hand to said person or his attorney, or sent by registered mail to said person at his residence, his place of business, or the office or place of employment from which he is being suspended. Such notice so given and delivered or sent shall automatically suspend the authority of such person to perform the duties of his office or employment until he is notified in like manner that his suspension is removed. A copy of any such notice together with an affidavit of service shall be filed as follows: in the case of a county, with the clerk of the superior court of the county in which the officer or employee is employed; in the case of a city, with the city clerk; in the case of a town, with the town clerk; in the case of a regional school district, with the secretary of the regional school district; and in the case of all other districts, with the clerk of the district.

Any person so suspended shall not receive any compensation or salary during the period of suspension, nor shall the period of his suspension be counted in computing his sick leave or vacation benefits or seniority rights, nor shall any person who retires from service while under such suspension be entitled to any pension or retirement benefits, notwithstanding any contrary provisions of law, but all contributions paid by him into a retirement fund, if any, shall be returned to him.

A suspension under this section shall not, in any way, be used to prejudice the rights of the suspended person either civilly or criminally. During the period of any such suspension, the appointing authority may fill the position of the suspended officer or employee on a temporary basis, and the temporary officer or employee shall have all the powers and duties of the officer or employee suspended.

Any such temporary officer or employee who is appointed as a member of a board, commission or agency may be designated as chairman.

If the criminal proceedings against the person suspended are terminated without a finding or verdict of guilty on any of the charges on which he was indicted, his suspension shall be forthwith removed, and he shall receive all compensation or salary due him for the period of his suspension, and the time of his suspension shall count in determining sick leave, vacation, seniority and other rights, and shall be counted as creditable service for purposes of retirement.

GENERAL LAWS, CHAPTER 271.

ADVERTISEMENTS AND CONTRACTS OF SCHOOLS OR PERSONS OFFERING CIVIL SERVICE COURSES

SECTION 48. (1962, c. 91.) Any school or person offering courses in preparation for civil service examinations shall cause to be printed in bold type on all its advertisements and circulars and all contracts to be entered into with prospective students a statement that disabled veterans who qualify for appointment must be given preference for appointment over veterans and non-veterans and that veterans must be given preference over non-veterans. Whoever violates the provisions of this section shall be punished by a fine of not less than fifty nor more than five hundred dollars.

ACTS OF 1908, CHAPTER 210.

PAY ROLLS, BILLS AND ACCOUNTS FOR SALARY OR COMPENSATION OF PERSONS IN THE SERVICE OR EMPLOYMENT OF THE CITY OF BOSTON

SECTION 1. (1909, c. 332; 1947, c. 137.) It shall be unlawful for the treasurer or other fiscal officer of the city of Boston to pay any salary or compensation to any person in the service or employment of the city unless the pay roll, bill or account for such salary or compensation shall bear the certificate of the city auditor, or of his authorized agent, that there is on file in the office of the city auditor a preliminary pay roll, bill or account for such salary or compensation which is of like tenor and bears the certificate of the director of civil service, or his authorized agent, that the persons named in such pay roll, bill or account have been appointed, employed, transferred or promoted in accordance with the civil service law and rules so far as the same are applicable, or, in case of doubt, that the director authorizes the payment of such salary or compensation for the time being; provided, that the director may certify, and the treasurer or other fiscal officer of the city of Boston may thereafter pay, for a term not exceeding thirty days, the regular compensation, or any part thereof, to any laborer in the service or employment of the city of Boston who, by reason of accident or injury occurring while he was in the performance of his duties and in the exercise of due care, has become incapacitated to perform the ordinary duties of his employment. But no such payment shall be made except upon the certificate of the city physician, the sworn statement of the head of the department, both stating that the employee is incapacitated as above, and the approval of the mayor.

SECTION 2. (1943, c. 161; 1945, c. 334; 1947, c. 137.) Every such preliminary pay roll, bill or account, before the certificate of the director of civil service or his authorized agent is affixed thereto, shall be sworn to by the head of the department, or by the person who is immediately responsible for the appointment, employment, promotion or transfer, of the persons named therein, and shall contain, in addition to such other information as the director of civil service or his authorized agent may require, the following information: — First, name of each employee; second, title of office or position in which actually employed; third, salary, wages or other compensation; fourth, dates of employment. Every such preliminary pay roll, bill or account shall be in such form as the director of civil service or his authorized agent may require.

SECTION 3. (1947, c. 137.) Any person who is entitled to receive the certificate of the director of civil service to the treasurer as having been appointed, employed, transferred or promoted in accordance with the civil service law and rules, and who is refused such certificate, and any person who has so been certified and whose name has illegally been removed from a pay roll by reason of suspension or discharge by any officer or board in charge of a department, may file a petition in the form of mandamus in the superior or supreme judicial court to compel the officer or board in charge of such department to reinstate such person, or to compel the director of civil service to issue such certificate.

SECTION 4. Each appointing, employing, or other officer, or in case of a board, each member thereof, who wilfully refuses or neglects to comply with the provisions of this act shall be punishable by a fine of not less than twenty-five nor more than one hundred dollars for each offence.

ACTS OF 1941, CHAPTER 708.

AN ACT TO MEET CERTAIN CONTINGENCIES ARISING IN CONNECTION WITH THE SERVICE OF PUBLIC OFFICERS AND EMPLOYEES AND CERTAIN OTHER PERSONS IN THE MILITARY OR NAVAL FORCES OF THE UNITED STATES DURING THE PRESENT NATIONAL EMERGENCY

SECTION 1. (1943, c. 172, 548; 1947, c. 4; 1953, c. 550.) Notwithstanding any contrary provisions of general or special law any person who, on or after January first, nineteen hundred and forty, shall have tendered his resignation from an office or position in the service of the commonwealth, or any political subdivision thereof, or otherwise terminated such service, for the purpose of serving in the military or naval forces of the United States and who does or did so serve or was or shall be rejected for such service, shall, except as hereinafter provided, be deemed to be or to have been on leave of absence; and no such person shall be deemed to have resigned from his office in the service of the commonwealth, or any political subdivision thereof, or to have terminated such service, until the expiration of two years from the termination of said military or naval service by him.

When a person holding an office or position in the service of the commonwealth, or any political subdivision thereof, enters the military or naval service of the United States and files a resignation in writing stating his reason for such resignation, the resignation shall be considered a final determination of the reason for leaving the service of the commonwealth, or a political subdivision thereof. If no written resignation is filed, entrance into the military or naval service of the United States by a person holding a position in the service of the commonwealth, or a political subdivision thereof, shall be prima facie evidence that his service to the commonwealth, or a political subdivision thereof, is terminated for the purpose of entering said military or naval service. The phrase "serving in the military or naval forces of the United States", the phrase "service in the military or naval forces of the United States" and the phrase "military or naval service", as used in this act, shall include service in the air force and in the coast guard, and shall be taken to include service other than in a civilian capacity as a member of any corps or unit established under the laws of the United States for the purpose of enabling women to serve with, or as auxiliary to, the armed forces of the United States.

SECTION 2. (1945, c. 610.) Any person referred to in section one who was or shall be separated from the service of the commonwealth, or any political subdivision thereof, while holding an office or position classified under chapter thirty-one of the General Laws shall, if he so requests in writing to the appointing authority within two years after the termination of his said military or naval service, and if, within said time, he also files with the division of civil service the certificate of a registered physician that he is not physically disabled or incapacitated for performing the duties of the office or position, be reinstated in the office or position previously held by him without civil service examination and without loss of seniority or other rights, or in case that physical or other disability prevents his reinstatement in the same position and his request for reinstatement states that he is willing to accept reinstatement in another position, he shall be reinstated in a similar class or grade or in a lower class or grade and shall be so employed without civil service examination and without loss of seniority or other rights if his physical condition, as certified by a registered physician, permits such employment; provided, that if he so requests reinstatement in the office or position formerly held by him and it has been filled prior to the effective date of this act by a permanent appointment, he shall be employed in a similar position in the same or in some other department. All appointments, transfers and promotions made on account of such leaves of absence shall be temporary only and the person so appointed, transferred or promoted shall be known as a military substitute; provided, that, notwithstanding any provision of said chapter thirty-one to the contrary, he may continue to serve in such office or position until the incum-

bent is reinstated therein or until the time within which he has a right to be reinstated has expired, and if the incumbent has not been reinstated as provided herein said military substitute shall, if his appointment as such military substitute was made in accordance with the civil service law and rules governing examination, certification and appointment, continue in the position and his seniority rights shall date from his appointment as such military substitute. In the event that a permanent vacancy not caused by or related to the absence of the incumbent in said military or naval service occurs in a position of the same or similar rank or grade as that then occupied by a military substitute, said military substitute may be appointed to such permanent vacancy and his seniority rights shall date from his appointment as such military substitute; provided, that the appointment of such military substitute was made in accordance with the civil service law and rules governing examination, certification and appointment; and provided, further, that such appointment does not prejudice the rights of any person who has notified the division of civil service that he is serving or has served in said military or naval service and whose name is or was on an eligible list at the time of commencing said military or naval service; and provided, further, that such permanent appointment of the military substitute shall be made in accordance with the civil service law and rules governing certification to an original position, except that the basis of certification shall be the order of appointment as military substitute or, in the case of appointments on the same date, the order in which names were certified for appointment.

SECTION 2A. (1946, c. 238.) Notwithstanding the provisions of section two, three or four or any other provision of this act, a certificate of a registered physician relative to a person's physical qualification for any office or position need not be filed, if the director of civil service has not fixed physical standards as a prerequisite to eligibility for original appointment to said office or position, and said director shall waive the requirement of a certificate of a registered physician, relative to a person's physical qualifications, for his restoration to an eligible register for the labor service if before certification he will be subjected by said director to a physical examination.

SECTION 2B. (1947, c. 11.) If a person, whose name was at the time of his entrance into the military or naval service on an eligible list, receives a permanent appointment and is given a seniority date later than that of another person who received a permanent appointment from such list but stood lower thereon, the director, upon application for such change, may establish as his seniority date the seniority date of such other person.

SECTION 2C. (1948, c. 447.) If a person, whose name was at the time of his entrance into the military or naval service on an eligible list, receives a permanent appointment and is given a seniority date later than that of another person who received a permanent appointment from a list established from a subsequent examination which the person in military or naval service was unable to take because of his absence in the military or naval service, the director upon application for such change may establish as the seniority date of the person in military service and because of such service, unable to take the subsequent examination, the seniority date of such other person.

SECTION 3. (1943, c. 548; 1967, c. 7; 1970, c. 66.) Any person who is permanently appointed to an office or position classified under said chapter thirty-one after certification from an eligible list, but, before commencing to serve therein, enters said military or naval service, shall be permanently employed in such office or position upon the termination of his said military or naval service, subject to a probationary period; provided, that he so requests in writing, within three months after such termination of service, and files with the division of civil service the certificate of a registered physician that he is not physically disabled or incapacitated for performing the duties of the office or position. Any appointment, transfer or promotion to fill such office or position while he is so serving

shall be temporary only and shall be filled by a military substitute who shall hold such office or position subject to the same limitations and with the same rights as a military substitute appointed under section two.

Any person who is in such military or naval service and who is certified in accordance with the civil service law and rules to a permanent office or position classified under chapter thirty-one of the General Laws may be permanently appointed to such office or position and employed therein provided he makes request for employment in writing of the appointing authority within three months after termination of such military or naval service, and files with the division of civil service the certificate of a registered physician that he is not physically disabled or incapacitated for performing the duties of the office or position. Any such appointment shall be subject to a probationary period to be served upon actual employment after return from the military or naval service. Any appointment, transfer or promotion to fill such office or position while he is so serving shall be temporary only and shall be filled by a military substitute who shall hold such office or position, subject to the same limitations and with the same rights as a military substitute appointed under section two.

Any person in the military or naval service who has passed a civil service examination, or whose name is on the civil service eligible list for the labor service, and because of such service was unable to appear for the physical examination and strength test, or either of them, shall have his name placed on the eligible list for which he has qualified and his name shall be certified for consideration in appointment and he may be appointed in accordance with the civil service law and rules, provided, however, that if he so requests in writing to the appointing authority within three months after termination of his military or naval service, he shall be employed in such position, subject to a probationary period, provided that prior to such employment he passes the physical examination and strength test for which he was unable to appear because of his military or naval service. Any appointment, transfer or promotion to fill such office or position while he is so serving shall be temporary only and shall be filled by a military substitute who shall hold such office or position subject to the same limitations and with the same rights as a military substitute appointed under section two.

SECTION 3A. (Repealed by 1949, c. 169.)

SECTION 3B. (Repealed by 1949, c. 169.)

SECTION 3C. (Repealed by 1949, c. 169.)

SECTION 3D. (1945, c. 610; 1946, c. 271; 1971, c. 233.) Whenever any civil service employee is or was unable to compete in a departmental promotional examination or a competitive promotional examination because of his absence in said military or naval service, he shall, if he so requests in writing not later than six months after the date of termination of his said military or naval service, be given a qualifying promotional examination. Upon the passing of such examination, he shall be entitled to the same period of eligibility which existed for the competitive promotional examination in which he was unable to compete.

SECTION 3E. (Repealed by 1971, c. 233.)

SECTION 3F. (1946, c. 271; 1971, c. 233.) If there is an eligible list in existence, the name of any person passing an examination provided for in section three D shall be placed thereon in the order of percentage. If there is no eligible list in existence, his name shall be placed on a special veteran promotional list, from which names shall not be certified, but upon the establishment of a subsequent eligible list for the same position, his name shall be placed thereon in the order of percentage. If he takes and passes the examination from which the subsequent eligible list was established, his name shall be placed on the list under both ratings, but in any one certification his name shall be certified only from the higher rating. If upon the expiration of any eligible list he has not had the period

of eligibility provided in section three D, his name shall be placed on a special veteran promotional list, from which names shall not be certified, but upon the establishment of a subsequent eligible list for the same position, his name shall be placed thereon in order of percentage for the remainder of his period of eligibility. Certifications shall be made from lists prepared as provided in this section and in accordance with the civil service law and rules governing certification.

SECTION 4. (Repealed by 1971, c. 233.)

SECTION 4A. (1946, c. 271; 1971, c. 233.) Any person whose name is on any eligible list or register of the division of civil service at the time of his commencing said military or naval service, and any person who otherwise becomes entitled to have his name placed on an eligible list or register on account of an examination or registration other than an examination provided in section three D, and who notifies the division of civil service that he is in said military or naval service, shall be continued on the eligible list or register for the period of eligibility of the list, and shall, if he so requests in writing not later than six months after September first, nineteen hundred and forty-six or the date of termination of his said military or naval service in case it is terminated after said September first and if he has not made a request under section four, be continued on or restored to eligibility for a further period following such request equal to the period of eligibility remaining at the time he commenced said military or naval service; provided, that at the time of such request he files with the director of civil service the certificate of a registered physician that he is not physically disabled or incapacitated for performing the duties of the office or position. If there is an eligible list in existence, the name of such person shall be placed thereon in the order of percentage and in accordance with the laws relating to veterans and disabled veterans. If there is no eligible list in existence, his name shall be placed on a special veteran list, from which names shall not be certified, but upon the establishment of a subsequent eligible list for the same position, his name shall be placed thereon in the order of percentage and in accordance with the laws relating to preference to veterans and disabled veterans. If he takes and passes the examination from which the subsequent eligible list was established, his name shall be placed on the list under both ratings, but in any one certification his name shall be certified only from the higher rating. If upon the expiration of any eligible list he has not had the period of eligibility provided in this section, his name shall be placed on a special veteran list, from which names shall not be certified, but upon the establishment of a subsequent eligible list for the same position his name shall be placed thereon in order of percentage and in accordance with the laws relating to preference to veterans and disabled veterans for the remainder of his period of eligibility. Certifications shall be made from lists prepared as provided in this section and in accordance with the civil service law and rules governing certification.

SECTION 4B. (1946, c. 271.) Whenever any period is set forth in sections one to four A, inclusive, the director of civil service, with the approval of the civil service commission, upon request made upon him in writing prior to the expiration of the period specified in said sections in cases where hospitalization or training is given under the Veterans' Administration, may authorize an extension in said period for the further period required by such hospitalization or training, if, in his opinion, the rights of such person would otherwise be prejudiced. The director may require such certificates as are necessary to determine the facts in the case.

SECTION 5. In case said military or naval service of an individual holding an office or position in the classified civil service or appointed to such office or position, or whose name is on an eligible list or register, prejudices the rights of such individual under the provisions of chapter thirty-one of the General Laws, and such rights are not specifically protected by this act, the director of civil service may, with the approval of the governor and council, and acting separately in the case of each individual, take such action as will in his judgment protect such rights.

SECTION 9B. (1945, c. 610.) Any person referred to in section one who was or shall be separated from the service of the commonwealth, or any political subdivision thereof, while holding an office or position in such service under chapter thirty-one of the General Laws, and receives a discharge, other than a dishonorable one, from said military or naval service, in case he is physically or mentally incapable of being reinstated in and performing the duties of the office or position previously held by him, may, if he is otherwise eligible to retirement, be retired under the retirement law applicable to him without such reinstatement.

SECTION 13. (1943, c. 338; 1946, c. 61.) In computing the period of five years, or ten years, as the case may be, of continuous service required under section forty-nine A of chapter thirty-one of the General Laws of an incumbent of a municipal office who has entered said military or naval service and returns to said office within two years after the termination of said service, the period between his entry into said service and his return to said office shall be counted.

In computing the period of five years of continuous service required by section thirty-six of chapter forty-eight of the General Laws as a prerequisite to the promotion of a call man, part call man or substitute call man to the permanent force of a fire department, the time such call man, part call man or substitute call man has served in such military or naval service or the merchant marine shall be counted.

SECTION 15. (1947, c. 14; 1953, c. 550.) Upon the application of any resident of the commonwealth who entered said military or naval service and has received an honorable discharge or release therefrom, the attorney general and the adjutant general are hereby severally authorized and directed to take such legal and proper measures as may result in the reinstatement of such resident by his former employer, including any city or town, in the position which such resident held immediately prior to entering such service. On such application, he or they shall also inform such resident of his rights under the Federal Selective Training and Service Act of nineteen hundred and forty, under the Federal Soldiers' and Sailors' Civil Relief Act of nineteen hundred and forty and under Public Resolution No. 96— 76th Congress, approved August twenty-seventh, nineteen hundred and forty, and any federal acts and resolutions in amendment thereof or in addition thereto relating to the rights and privileges of persons in the military or naval service of the United States during the existing national emergency, and shall co-operate with the proper official or officials of the United States department of justice in obtaining for such resident his rights under such federal acts and resolutions. Upon the making of any such application the former employer, including any city or town, of such resident shall be notified thereof by the attorney general or the adjutant general, as the case may be, and be furnished with a copy of this section.

SECTION 24. (1946, c. 62; 1947, c. 203.) Any person who returns or is restored to an office or position in the service of the commonwealth, or any political subdivision thereof, within two years after having served in the military or naval forces of the United States shall be entitled to all seniority rights to which he would have been entitled if his public service had not been interrupted by such military or naval service, and any person who, while serving in such military or naval forces, is appointed under the civil service law to an office or position in the service of the commonwealth, or any political subdivision thereof, and, within three months after having received his discharge from such forces, commences to serve in such office or position shall be entitled to all seniority rights to which he would have been entitled if he had commenced to serve at the time of such appointment; and any such person whose salary is fixed under a classified compensation plan shall be eligible to a salary rate which includes the accrued step-rate increments to which he would have been eligible except for his service in the military or naval forces.

SECTION 24A. (1948, c. 447.) Any permanent employee of the commonwealth or any of its subdivisions who was unable to compete in a competitive

promotional examination or whose competitive promotional examination was delayed or postponed because of absence in military or naval service and who after his return from such service takes a qualifying promotional or competitive promotional examination as provided by law and is subsequently permanently promoted as the result of such examination, shall, upon such promotion, receive the rate of compensation which he would have received had his promotion not been delayed by such service.

SECTION 24B. (1949, c. 600.) Any permanent employee of the commonwealth or any political subdivision thereof, who was eligible to be transferred or promoted to a higher rating, either on a temporary or permanent basis, but his transfer or promotion was delayed because of service in the military or naval forces of the United States and the position actually was filled by an employee with less seniority on a temporary basis during said permanent employee's absence, and who passes a competitive promotional examination and receives a subsequent permanent appointment, shall thereafter have the same salary rating and seniority rights that he would have if his transfer or promotion had occurred at the time said position actually was filled by an employee with less seniority as aforesaid.

SECTION 25. (1943, c. 548; 1945, c. 610; 1946, c. 271; 1951, c. 725; 1953, c. 550; 1955, c. 767; 1957, c. 551; 1959, c. 576; 1960, c. 619; 1962, c. 544; 1964, c. 580; 1965, c. 726; 1966, c. 671.) Service in the military or naval forces of the United States referred to in this act shall, except as otherwise provided thereby, mean such service occurring between January first, nineteen hundred and forty and the termination of the Selective Service Act of 1948; provided, however, that such service shall not be construed to include service for more than four years unless such further period of service in excess of four years was involuntary service required by the government of the United States or unless such service in excess of four years was rendered prior to July first, nineteen hundred and sixty-four and such person was reinstated or reemployed on or before June thirtieth, nineteen hundred and sixty-six.

SECTION 26. (1943, c. 548.) Nothing in this act shall be construed as giving the benefits thereof to any person who is dishonorably discharged from such military or naval service.

ACTS OF 1965, CHAPTER 534.

ENROLLEES IN THE ANTI-POVERTY PROGRAMS EXEMPT FROM THE OPERATION OF THE CIVIL SERVICE LAW AND RULES

Enrollees in programs under Title IB, IC and V as set forth under Public Law 88-452, cited as the Economic Opportunity Act of 1964, shall be exempt from the provisions of chapter thirty-one of the General Laws, as amended. Such enrollees shall not displace employees in existing positions, nor shall they fill positions for which civil service employees are actively being sought or for which there are budgetary appropriations. Administrative, supervisory, clerical and other employees used in connection with the administration of these titles shall be selected in accordance with the civil service law and rules of the commonwealth, wherever applicable.

Enrollees under Title IB shall be young men and women who are permanent residents of the United States and who have attained age sixteen but have not attained age twenty-two, and whose participation in such programs will be consistent with the purposes of the Economic Opportunity Act of 1964. Enrollees under Title IC shall be students in institutions of higher education who are from low income families. Enrollees under Title V shall be persons who are unable to support or care for themselves or their families.

No exemption granted hereunder shall continue if in the opinion of the director of civil service there is any violation of chapter thirty-one of the General Laws, and in such cases section thirty-eight of chapter thirty-one shall apply.

ACTS OF 1965, CHAPTER 874.

CITIZENSHIP OF PHYSICIANS EMPLOYED IN THE DEPARTMENTS OF
PUBLIC WELFARE AND PUBLIC HEALTH FOR THE PURPOSE OF
COMPLYING WITH PUBLIC LAW 89-97 OF 1965

SECTION 4. For the purposes of the requirement of chapter thirty-one of the General Laws, that an applicant for examination under civil service be a citizen of the United States, a physician employed under authority of this act shall be deemed to have met the requirement of citizenship, if he presents a certificate from the court in which he shall have filed his declaration of intention to become a citizen of the United States, or from the Immigration and Naturalization Service of the United States, showing that he has declared his intention to become such a citizen or a copy of such declaration of intention, certified by the clerk of such court.

ACTS OF 1967, CHAPTER 399.

VIETNAM VETERANS ELIGIBLE IN CERTAIN CASES TO TAKE CIVIL
SERVICE EXAMINATIONS, AND TO TAKE SUCH EXAMINATIONS
NOTWITHSTANDING THE AGE REQUIREMENTS

SECTION 1. (1969, c. 118; 1971, c. 180.) Any Vietnam veteran, who is a veteran as defined in section twenty-one of chapter thirty-one of the General Laws, who was unable to take an open competitive civil service examination because of absence due to service in the armed forces of the United States, during the existence of the Vietnam emergency shall, if he so requests, in writing, not later than one hundred and twenty days after the termination of such service, be given an examination comparable to that which he had been unable to take because of his service in said armed forces. If he passes such examination and otherwise qualifies, his name shall be placed on an eligible list, and he shall be entitled to the same period of eligibility as existed for all who passed the open competitive examination which he was unable to take, provided, that if, under the provisions of section eight A of said chapter thirty-one, such examination is on a continuous basis, he shall be notified of the next examination scheduled following his request and if he passes said examination and meets all the requirements his name shall be placed on the eligible list established as the result of the examination and, upon his request, on any existing eligible list which was established as the result of the examination he was unable to take due to such service.

No Vietnam veteran shall for a period of four years after the date of his discharge or release from the armed forces be disqualified by reason of age from taking any civil service examination for any particular position, if at the time of his entry into such service he was of proper age to qualify for such examination, any provision of law or rule establishing an age limit to the contrary notwithstanding.

SECTION 2. This act shall cease to be operative upon the expiration of four years from the date of termination of the Vietnam emergency as declared by proper federal authority.

ACTS OF 1968, CHAPTER 105.

CERTAIN NONINSTRUCTIONAL AIDES EMPLOYED BY SCHOOL
DEPARTMENTS EXEMPT FROM THE PROVISIONS OF THE CIVIL SERVICE
LAW

Noninstructional aides employed by school departments under the provisions of Title I of the Elementary and Secondary Education Act of 1965 (Public Law 89-10) shall be exempt from the provisions of chapter thirty-one of the General Laws; provided, however, that no such aide shall be appointed to or employed in any office or position which is classified under the civil service law and rules.

ACTS OF 1968, CHAPTER 637.

SPECIAL PROVISIONS RELATIVE TO TRANSFER OF PERSONS
APPOINTED PRIOR TO OCTOBER 14, 1968

SECTION 7. Except for just cause and subject to the provisions of sections forty-three and forty-five of chapter thirty-one of the General Laws as in effect immediately prior to the effective date of this act, no person who on said effective date holds office or employment under permanent appointment in the official or labor service of the commonwealth, or of any county, city or town thereof, shall be transferred in the official or labor service without his consent in writing.

NOTE: Chapter 637 of the Acts of 1968 deleted most of the references to transfer from Section 43 of Chapter 31. Section 7 of said Chapter 637 protected the rights of persons holding office on the effective date of said Chapter 637, namely, October 14, 1968. Chapter 72 of the Acts of 1970 restored said Section 43 and added specific references to the date of October 14, 1968.

ACTS OF 1970, CHAPTER 364

AN ACT PROVIDING FOR THE PROTECTION OR RESTORATION OF THE
RIGHTS OF CERTAIN PUBLIC EMPLOYEES.

SECTION 1. If the rights of any person acquired under the provisions of any chapter of the General Laws or under any rule or regulation promulgated thereunder have been prejudiced through no fault of his own, the director of civil service, with the approval of the civil service commission, may take such action as will restore or protect such rights, notwithstanding the failure of any person to comply with any requirement of any chapter of the General Laws as a condition precedent to the restoration or protection of such rights.

SECTION 2. (1972, c. 75.) This act shall cease to be operative on December the thirty-first, nineteen hundred and seventy-four.

ACTS OF 1970, CHAPTER 437

AN ACT RELATIVE TO THE MINIMUM AGE REQUIREMENT FOR
BEACH OR SWIMMING POOL LIFEGUARDS EMPLOYED BY THE
METROPOLITAN DISTRICT COMMISSION.

SECTION 1. Notwithstanding the provisions of section forty-eight C of chapter thirty-one of the General Laws relative to appointments by the metropolitan district commission of beach or swimming pool lifeguards, said commission may, if there is no suitable list of eligible applicants to fill existing vacancies, appoint an applicant who has attained his sixteenth birth day as a beach or swimming pool lifeguard, provided such applicant meets all other requirements.

SECTION 2. This act shall cease to be in effect on December the thirty-first, nineteen hundred and seventy-two.

ACTS OF 1970, CHAPTER 720

PROMOTION OF CERTAIN PERSONS IN THE
INSTITUTIONAL SERVICE OF THE COMMONWEALTH.

SECTION 2. Notwithstanding the provision of section forty-two of chapter thirty-one of the General Laws, as amended by section one of this act, any person who on the effective date of this act was serving in an office or position subject to said section forty-two as in effect prior to said effective date and had acquired permanent civil service status in the institutional service of the commonwealth may, at the request of the appointing authority, be promoted to state hos-

pital administrative assistant, subject to a qualifying or departmental competitive promotional examination as the director of civil service shall determine.

SECTION 3. The director of civil service may authorize upon request of the appointing authority the promotion of a person who has been appointed to a position subject to said section forty-two, amended by section one of this act, upon submission of reasons satisfactory to the director justifying the promotion and providing that such person immediately prior to his appointment under said section forty-two had permanent civil service status in the institutional service of the commonwealth and further provided that such promotion could have been authorized in accordance with the provisions of the civil service law and rules notwithstanding the interruption of employment under civil service by the appointment under section forty-two of chapter thirty-one of the General Laws.

ACTS OF 1970, CHAPTER 873

PROVISIONS EXEMPTING CERTAIN EMPLOYEES OF THE MODEL CITIES PROGRAM, SO CALLED, FROM THE CIVIL SERVICE LAW

SECTION 1. Section nine A of chapter thirty and chapter thirty-one of the General Laws shall not apply to persons appointed or employed by a city demonstration agency, established under the "Demonstration Cities and Metropolitan Development Act of 1966", except that no person shall be appointed or employed as a police officer or fire fighter by such city demonstration agency or be otherwise authorized, empowered or employed by any such agency to perform any of the functions of a police officer or fire fighter classified under the civil service law and rules.

Persons employed by a city demonstration agency may be assigned for training purposes, with the consent of the department heads concerned, to municipal departments; provided, however, that no such assignment shall be made to police or fire departments to perform any of the functions of a police officer or fire fighter; and provided, further, that assignments permitted by this section may only be made pursuant to collective bargaining agreements governing such assignments and entered into between a city or town and all employee organizations representing employees in a municipal department to which such persons may be assigned.

SECTION 2. Nothing in this act shall be deemed to abrogate, impair, set aside or waive the provisions of any collective bargaining agreements in force and effect between any city or town and employee organizations.

SECTION 3. Any employees of model cities presently assigned to any police or fire department prior to August the first, nineteen hundred and seventy may continue to be so assigned without interruption of their services.

SECTION 4. The provisions of this act shall take effect on August the first, nineteen hundred and seventy, and shall become inoperative on August the first, nineteen hundred and seventy-three.

ACTS OF 1972, CHAPTER 710

AN ACT FURTHER REGULATING THE APPOINTMENT OF PERSONS TO TEMPORARY POSITIONS CREATED UNDER THE EMERGENCY EMPLOYMENT ACT OF 1971.

SECTION 1. Notwithstanding any provision of section fifteen of chapter thirty-one of the General Laws or any other law or rule pertaining thereto to the contrary, a temporary position created pursuant to the Federal Emergency Employment Act of 1971, Public Law 92-54, shall not be subject to the provisions

of said chapter thirty-one whether or not such position in the service of the commonwealth or of the cities and towns is subject to said chapter thirty-one. Subject to the requirements of said Act, any person found qualified by the appointing authority may be appointed to such position during the existence thereof. He shall receive the prevailing rate of pay for persons employed in similar positions by the state or municipal employer and shall be entitled to the same benefits, including but not limited to workmen's compensation, health insurance, vacations, sick leave and unemployment compensation, as are other employees in similar positions under the jurisdiction of the appointing authority; provided, however, there shall be no conflict with any federal law, rule or regulation.

CIVIL SERVICE RULES

DEFINITIONS.

Rule 1.

1. The word "city", as used in these rules and in all application blanks and other papers prepared hereunder, shall include "town" and, where applicable, any district or authority established under the provisions of general or special laws.

2. Persons paid by the Commonwealth or any city, whether carried on the regular pay roll, or special pay roll or by presenting a bill personally or by some other person, company or corporation, shall be deemed to be in the service of the Commonwealth or the city within the meaning of these rules unless specially exempt by statute.

3. The word "compensation" as used in these rules and in Chapter 31 shall be deemed to mean the rate of wages or salary paid to an employee in accordance with the authorized and established classification and pay plan.

CLASSIFICATION OF THE SERVICE.

DIVISIONS.

Rule 2.

1. The offices and positions to be filled under these rules are to be known as the Classified Civil Service and are divided into two divisions; the first to be known as the Classified Official Service and the second as the Classified Labor Service.

THE CLASSIFIED OFFICIAL SERVICE.

Rule 3.

1. The following offices and positions and the persons performing duties or rendering services therein are subject to the Civil Service Law and Rules:

- a. The offices and positions and the persons performing duties or rendering service in any of the offices and positions and classes of positions classified by statute.
- b. The offices and positions and the persons performing duties or rendering service in any office and position and classes of positions in the Commonwealth, the Massachusetts Bay Transportation Authority Police Department, and cities, unless otherwise exempted by statute.
- c. All persons performing duties or rendering services similar to that of any office or position and class of positions classified by statute, or not exempted by statute, under whatever designation.

2. This rule shall apply whether such duties or services are permanent or temporary, and whether the same is paid by time for work done, by the piece, or in any other manner.

3. A list of such offices or positions and any amendments or additions thereto shall be on file in the office of the Division of Civil Service, which list shall be open to reasonable inspection by the public, and a copy shall be filed with the Secretary of the Commonwealth.

4. The Director shall combine offices and positions subject to this rule into suitable classes, similar in respect to duties and responsibility or otherwise related so that a grouping of the positions is available for promotional, classification or other purposes. The Director shall subdivide any class into grades when such a subdivision is necessary.

QUALIFICATIONS.

Rule 4.

1. An applicant at the time of filing application for any office or position to which these rules apply must be a citizen of the United States who has domiciled in the Commonwealth for one year next preceding the date of filing his application. An applicant for an office or position in the service of a city must also have domiciled in the city in which he seeks service for six months next preceding the date of filing his application. The Director may waive the restrictions of domicile when in his opinion the needs of the public service may so require. If domicile is waived in any examination, it must be waived for all applicants who request such waiver and information regarding the waiver, if any, must be stated in the notice of the examination.

Rule 5.

1. Good character is an essential qualification for admission to the eligible list.

2. The burden of proof of good character shall in all cases be upon the applicant, who may be required by the Director to furnish evidence additional to the information required to be stated in his application.

3. The Director may cancel an application, suspend the same pending investigation, exclude an applicant from examination, refuse to certify an eligible, remove his name from any eligible list, or declare his appointment invalid upon proof of any of the following conditions:—

- a. Dismissal of the applicant or eligible from the public service, or his resignation pending charges.
- b. Criminal, infamous, dishonest, immoral, notoriously disgraceful, dis-solute, or bad conduct or character.
- c. The knowingly making of a material false statement by any person in his application or in his examination, and every connivance by him at any material false statement made in any accompanying certificates, or the commission of or attempt to commit any fraud against civil service law or rules, of any complicity by or benefit to him in any such fraud, before, during, or after any examination.
- d. Whenever it appears to the Director, from the application or from the record of any physical examination, or from any investigation made by the Director, and whether before or after acceptance of the application or after appointment, that the applicant is not qualified.

4. If the Director declares an appointment invalid, he shall, after notice in writing mailed to the appointing or employing officer, department, board or commission, and to such person, notify in writing the treasurer, auditor or other

officer whose duty it is to pay the salary or compensation of such person, or to authorize the drawing, signing or issuing of any warrant therefor; and the payment of any salary or compensation to such person shall cease at the expiration of one week after the mailing of the notice to such treasurer, auditor or other officer, and no such officer shall pay any salary or compensation to such person, or draw, sign or issue, or authorize the drawing, signing or issuing, of any warrant therefor, until the legality of such appointment or employment is duly established. No final action shall be taken by the Director under this rule without giving the person affected an opportunity to be heard.

5. Nothing herein contained shall prevent the establishment of an eligible list.

AGE, HEIGHT, WEIGHT.

Rule 6.

1. An applicant for state police detective* lieutenant inspector shall have reached his twenty-fifth birthday on the date of examination, and measure not less than five feet eight inches in height and weigh not less than one hundred and thirty-five pounds.

An applicant for district engineering inspector in the State Department of Public Safety shall have reached his twenty-fifth birthday and shall not be over forty-five years of age when first appointed.

A male applicant for all other positions of inspector in the Department of Public Safety shall have reached his twenty-fifth birthday and shall not have reached his fiftieth birthday on the date of examination, and, except applicants for building inspector, shall measure not less than five feet seven inches in height and weigh not less than one hundred and thirty-five pounds.

A male applicant for patrolman** in any city shall have reached his twenty-first birthday and shall not have reached his thirty-fifth birthday on the date of examination.

A male applicant for metropolitan police patrolman, capitol police officer and public works building police officer shall have reached his twenty-first birthday and shall not have reached his thirty-fifth birthday on the date of examination, and shall not be less than five feet eight inches in height, and weigh not less than one hundred and thirty-five pounds.

A male applicant for Massachusetts bay transportation authority patrolman shall have reached his twenty-first birthday and shall not have reached his thirty-fifth birthday on the date of examination, and shall not be less than five feet seven inches in height and weigh not less than one hundred and thirty-five pounds.

A male applicant for correction officer*** shall have reached his twenty-first birthday and shall not have reached his thirty-fifth birthday on the date of examination, and weigh not less than one hundred and thirty-five pounds.

An applicant for supervisor of attendance in the service of any city shall have reached his thirtieth birthday on the date of examination.

An applicant for fire fighter in any city shall have reached his twenty-first birthday and shall not have reached his thirty-fifth birthday on the date of examination.****

*Section 20 of Chapter 31 of the General Laws provides that "No person shall be eligible to take an examination for appointment as a detective in the division of state police who on the date of such examination is over forty-five years of age."

**See Section 5B of Chapter 31 of the General Laws for provisions of law pertaining to height and weight of applicants for a police force.

***Section 13A of Chapter 31 of the General Laws provides that "... the minimum height requirement for applicants for the position of correction officer shall be five feet seven inches."

****See Section 5B of Chapter 31 of the General Laws - minimum age changed to nineteen.

2. The Director may fix height, weight and minimum age limits for offices or positions not mentioned above, unless otherwise fixed by law, and may require any special qualifications for any office or position. The Commission in time of war or public emergency may change any height, weight or minimum age limits fixed by civil service rules, when, in its opinion, the needs of the public service may so require.

APPLICATIONS.

Rule 7.

1. Applications for appointment to positions in the Classified Official Service shall be filed at the office of the Division of Civil Service in Boston, and defective applications will not be accepted.

2. Persons receiving a provisional appointment to any position in the Classified Official Service shall file an application in sufficient time to be notified for the next open competitive examination held for this position after the effective date of such provisional appointment. An applicant may be allowed to take an examination subject to later review to determine if he meets the minimum entrance requirements. If it is determined that an applicant does not meet the minimum entrance requirements, as set forth on the poster for the office or position, he shall be declared ineligible by the Director.

3. Any person possessing the required qualifications who has taken an examination may make new application for the same service. If any person fails to fulfill all the requirements, his examination shall be treated as a failure.

4. Applications may be accepted when an examination has been ordered by the Director but not prior to the date of the order.

EXAMINATIONS.

Rule 8.

1. The Director shall establish procedures to hold open competitive and other examinations to test the practical fitness of applicants.

2. The grading of the subject of training and experience as a part of a competitive examination shall be based on a schedule prepared by the Director which shall include credits for elements of training and experience related to the position for which the examination is held.

PHYSICAL EXAMINATIONS.

Rule 9.

1. Any applicant who shall have passed a physical examination or test of physical fitness may, before certification, be required to undergo such further physical examination or test of physical fitness as the Director may prescribe.

2. When a physical examination or test of physical fitness is ordered and an applicant fails to appear, the eligible list may be established notwithstanding; but the Director may for cause shown allow such applicant to take the physical examination or test of physical fitness at a later date. If the applicant subsequently passes such a physical examination or test of physical fitness, his name will be placed on the eligible list in accordance with the provisions of the Civil Service Law and Rules.

3. The examining physician shall make a report of the physical condition of the applicant, and the Director shall have discretion to accept or reject any applicant in accordance with the degree of disability found to exist. This applies to police and fire as well as to all other applicants; provided, however, that the standards shall not be waived or dispensed with in the case of any applicant.

ELIGIBLE LIST.

Rule 10.

1. The examination papers of persons examined shall be marked and graded, and the results recorded. Separate eligible lists may be kept of those seeking to enter any part of the service in which special qualifications are required.

2. Any person whose appointment has been legally made or authorized from the eligible list under the civil service rules, and whose service has been terminated without fault or delinquency on his part during the probationary period, may, upon his request in writing made within six months from the date of termination of his service and the eligible list from which he was appointed has not expired, have his name restored to the eligible list for the remainder of the period of eligibility of the list from which he was appointed. If there is no adequate list to fill a vacancy and request for restoration is made during the period of eligibility of the list, the Director may, in his discretion, restore for the remainder of the period of eligibility of the list the name of a person who did not make written request for restoration to the eligible list during the six month period following the date of the termination of his service.

3. When eligible lists for the same position are established as the result of open competitive, departmental promotional or competitive promotional examinations, names shall be certified first from the list established from the departmental promotional examination, second from the list established from the competitive promotional examination, third from the list established from the open competitive examination held for that specific department or division of a department and last from any open competitive examination in accordance with the procedures established by the Director.

REQUISITION AND CERTIFICATION.

Rule 11.

1. Whenever any appointing officer shall make requisition, the Director shall certify from such list as he shall deem suitable. The position, if filled, must be filled by the appointment and employment of one of the persons certified. The Director, in his discretion, may certify to any appointing authority the whole or part of any eligible list which he deems suitable and may delegate to such appointing authority the functions of notifying, interviewing, and appointing eligible persons from such list in accordance with provisions of the Civil Service Law and Rules.

2. Unless an appointing officer shall, within three weeks of any certification of names to him by the Director, make and notify the Director of an appointment from the names certified, the certification shall become void; provided, however, that the Director, in his discretion, may limit or extend the term of any certification, or ratify any appointment made from such certification.

The Director, however, may before or after an appointment has been made cancel a certification, if he finds that the certification was made in error, or that any person certified was placed on the eligible list through mistake or fraud; and, if a person has been appointed from such certification, he may revoke his appointment and order his discharge. No person, however, shall be deemed to have been appointed or promoted to any position requiring certification by Director from an eligible list unless the appointing officer, prior to the date of expiration of such eligible list, shall have notified the Director in writing that such person has been so appointed or promoted.

3. If a requisition is made calling for persons having several qualifications ordinarily covered by distinct classes, the Director may, in his discretion, certify from any class persons possessing the qualifications called for.

4. If a requisition is made for persons to do work for which a special examination has been held and no special list has been established, but the duties of the position to be filled are similar to those of positions for which lists have been established, the Director may certify from the established list.

5. The Director shall place on the eligible list below the names of disabled veterans as defined in Section 23A of Chapter 31 of the General Laws, the names of blind persons for employment by any state department, board or commission in the office or offices of which dictating machines are used of typists to take dictation solely from such machines and shall certify the names of such persons upon receipt of requisition. The Director may require appointing authorities to identify those requisitions filed to fill positions subject to this section.

6. Upon receipt of a requisition for full-time service, the names of intermittent, recurrent, part-time and reserve employees appointed on a permanent basis shall be certified, in accordance with the civil service rules regarding certification, to a position with the same title in the same department or division of a department. The basis of certification shall be the order of appointment to the permanent intermittent, permanent recurrent, permanent part-time or permanent reserve position with the same title in the department or division of a department for which requisition is made; provided, that any person so appointed shall serve a full probationary period including service, if any, as a permanent intermittent, permanent recurrent, permanent part-time or permanent reserve employee.

TRANSFERS

Rule 12.

1. If a person who, prior to October 14, 1968, held office or employment under permanent appointment and, therefore, was subject to the provisions of Section 7 of Chapter 637 of the Acts of 1968, consents in writing to a permanent transfer from the position held on that date, he shall be thereafter subject to the provisions of Section 16A of Chapter 31 of the General Laws and said Section 7 shall no longer apply in his case. No transfer which involves two appointing authorities shall be approved by the Director without the consent of the appointing authorities in both departments.

MEDAL OF HONOR, DISTINGUISHED SERVICE CROSS OR NAVY CROSS

Rule 13.

1. Applications of persons for whom requisitions for employment have been made in accordance with the provisions of Section 22 of Chapter 31 of the General Laws shall be in the same form as required for all other applicants for positions for which employment is requested.

CERTIFICATION OF OTHER ELIGIBLES

Rule 14.

1. Certification shall be made in the order of the standing on the eligible list, except as provided in Section 4 of this rule, as follows:—

For 1 vacancy,	3 names	For 4 vacancies,	6 names
2 vacancies,	4 names	5 vacancies,	7 names
3 vacancies,	5 names		

For each multiple of five vacancies, the same multiple of seven names; for vacancies from one to four, inclusive, over a multiple of five, additional names according to the above table.

2. Upon written proof satisfactory to the Director of the advisability of so doing, he may certify additional name or names, and shall record a complete statement of his reason for so doing.

3. If an appointing officer appoints a smaller number than called for in the requisition, he must limit his appointments to the list of eligibles that would have been certified for the smaller number.

4. The Director shall have discretionary power to certify two names instead of three to fill one vacancy.

APPOINTMENT.

Rule 15.

1. No person shall be regarded as appointed to a full-time position within the requirements of these rules unless he accepts the position and is actually employed within thirty days from the date of receipt of notice of appointment.

2. No permanent employee shall be regarded as promoted within the requirements of these rules unless he is actually employed in the position to which he is promoted within thirty days from the date of receipt of notice of promotion. If, however, his promotion is approved by the Director while he is serving temporarily in a position of the same or higher grade, he may continue to serve in such position as authorized by the Director and his permanent promotion shall not be affected by such temporary employment in a different grade notwithstanding the fact that he is not actually employed in the position to which he has been promoted during said thirty days.

PUBLIC INSPECTION.

Rule 16.

1. The records of the proceedings of the Commission and of the Director, all recommendations of applicants, and all applications, which by statute are open to public inspection, shall be inspected only during the regular working hours and shall not interrupt the normal operations of the Division.

NON-COMPETITIVE APPOINTMENT.

Rule 17.

1. No person who shall have failed to pass any non-competitive or qualifying examination held under these rules, or held under the provisions of any statute, shall be given another non-competitive or qualifying examination for the same position within three months from the date of his last examination.

REAPPOINTMENT AND REINSTATEMENT.

Rule 18.

1. No examination shall be required upon a reappointment of any person to the same office immediately upon the expiration of his term of office.

2. A member of the uniformed force of the Boston Police Department, appointed to the highest rank or the next highest rank, and who is not eligible for, or does not accept retirement from said highest rank or the next highest rank shall, upon ceasing to hold said positions be forthwith reinstated to the same position in the classified rank or class in which he served prior to his appointment to the highest rank or the next highest rank.

TEMPORARY APPOINTMENT.

Rule 19.

1. A person certified for temporary employment to boards of assessors, or other departments in which temporary employment is regularly recurrent at stat-

ed periods, may within one year from the cessation of such employment or within the next calendar year be again employed in such position.

2. The acceptance by an eligible of a temporary appointment shall not affect his standing on the eligible list for permanent appointment.

PROMOTION.

Rule 20.

1. The meaning of the word "examination" as used in General Laws, Chapter 31, Section 3, clause (f) shall include the written test and/or practical test and an evaluation of experience or of training and experience. The term "seniority of service" in said clause shall be interpreted to refer to service after certification in the department for which the examination is held. Where the subject of training and experience is part of an examination, credit shall be allowed in marking such subject, in accordance with a schedule prepared by the Director, for seniority of service, for service in the department on a provisional basis in a position other than that for which the examination is held, and for other service, whether within or without the department, which is related to such position. Nothing in this rule shall be deemed to limit the authority of the Director to determine the weight and scope of examinations, as provided by law.

2. In competitive examinations for promotion to any position in the Classified Official Service the Director shall add two points to the general average mark obtained by any veteran, as defined in General Laws, Chapter 31, Section 21, providing such veteran has first obtained a passing mark in said examination.

CERTIFICATION OF PAYROLLS.

Rule 21.

1. If the Director shall find that the appointment or employment of any person named in any payroll, bill or account of the city of Boston is in violation of law or these rules, he shall designate specifically the name of such person; and payment of any salary or compensation to such person shall not be made by the treasurer or other fiscal officer of Boston until such officer shall receive notice in writing from the Director that said payment is duly approved by him; provided, however, that the failure of the Director to approve payment to any person so specially designated shall not prevent the payment to any other persons named in said pay roll, bill or account of their respective salary or compensation.

2. The affixing by the Director of the certificate provided for by statute to any pay roll, bill or account shall be construed only as approval of the payment of the salary or compensation specified to the persons appearing on such pay roll, bill or account, and shall not constitute any authorization by the Director of any subsequent payment of salary or compensation to the persons whose names appear on such pay roll, bill or account, and shall not prevent or preclude the Director from withholding his certificate from any subsequent pay roll, bill or account with respect to any persons whose names appear thereon, if at any time it shall appear to the Director that the appointment or employment of such person is in violation of law, or these rules.

OFFICES NOT INCLUDED IN RULES.

Rule 22.

1. Upon the request of any officer or board having the power of appointment to any office or position in the service of the Commonwealth, or any of the cities thereof, to which these rules do not apply, the Director will furnish names from any list of eligible persons to fill a vacancy in such office or position; or he will, whenever practicable, hold competitive or non-competitive examinations for such office or position.

EFFICIENCY INVESTIGATION.

Rule 23.

1. Every appointing officer, upon request of the Director, shall furnish him with information called for relating to the work, duties, compensation, grades, titles, ratings, efficiency and conduct of officers and employees within the classified service.

THE CLASSIFIED LABOR SERVICE.

Rule 24.

1. The Classified Labor Service shall be subject to the provisions of the foregoing rules in so far as they are not inconsistent with the following rules especially applicable to the Classified Labor Service.

2. The Classified Labor Service shall be divided into three classes: (1) Laborers; (2) Skilled Laborers; (3) Mechanics and Craftsmen. The Director shall divide these classes into suitable lists to conform to the work for which applicants are qualified or which employees perform, and shall register applicants and record employees on the appropriate list or lists for which their qualifications or duties entitle them. Persons doing any form of labor not included, in the opinion of the Director, within the classification of the Classified Official Service, shall be deemed to be in the Classified Labor Service.

3. The Director shall provide for the registration and certification of employees in the labor service of the Metropolitan District Commission; Executive Office for Administration and Finance; Massachusetts Correctional Institution, Bridgewater; Massachusetts Correctional Institution, Framingham; labor service employees in the Massachusetts Correctional Institutions at Walpole, Concord and Norfolk who have prisoners under their charge; State Department of Public Utilities, State Department of Public Works, except as provided in General Laws, Chapter 31, Section 4; State Department of Corporations and Taxation; Division of Employment Security; female cleaners and male laborers in the State Department of Public Safety; labor service employees in the Division of Conservation Services and full-time Conservation Helper employed on a year-round basis, and Conservation Skilled Helper in the State Department of Natural Resources; Registry of Motor Vehicles; Civil Defense Agency of the Commonwealth; Department of Commerce and Development; Department of Community Affairs; Department of Public Welfare; Massachusetts Bay Transportation Authority Police Department; Department of Youth Services and in other agencies of the Commonwealth where the labor rules may become applicable; and in cities where the labor rules are or may become applicable.

APPLICATION.

Rule 25.

1. Applicants for the Classified Labor Service of a city shall apply for registration at the Civil Service Labor Office, if any, in the city in which they are domiciled and all other applicants at the office of the Division of Civil Service in Boston, or at any authorized office more convenient to the place of residence of the applicant as approved by the Director.

2. When an applicant desires to be registered for any position other than that of laborer, he must meet the minimum experience requirements established for the particular position in the Skilled Laborer, or Mechanic and Craftsman classes in order to qualify, and must exhibit a current license for the position if required by statute.

3. The Director may at his discretion, in addition to the minimum experience requirements, provide and require practical tests or examinations regarding the physical and other qualifications of any applicant for the work for which he desires to be certified.

REGISTRATION.

Rule 26.

1. The names of applicants for the position of laborer and other positions for which they qualify by reference or license in accordance with these rules, and/or who qualify after such practical test or examination as the Director may prescribe, shall be placed on the eligible list or lists for which they qualify in order of date of application, subject to the applicable provisions of Chapter 31.

2. The eligibility of an applicant shall continue unless the Director requires a renewal of his registration in order to remain eligible; provided, however, that the name of an applicant removed from the eligible list for reasons set forth in these rules may not be restored to the eligible list unless request is made in writing by the applicant within one year from the date of removal. If request is not made within this period, he must file a new application and be considered as a new applicant.

3. In case any applicant is found by the Director to be unfit or in any way unqualified to perform the duties of the position which he seeks, his name shall not be entered on the eligible list; and, if on the eligible list, it shall be removed therefrom, and the reason shall be entered on the records of the Division of Civil Service.

REQUISITION AND CERTIFICATION.

Rule 27.

1. When positions are to be filled in the labor service, the appointing authority shall make requisition upon the Director, stating the number of persons wanted, the precise nature of the labor in which they are to be employed, the time and place and probable duration of employment, and the pay to be given.

2. If the appointing authority requests in his requisition the certification of persons with experience in the department, the Director shall give preference in certification to all persons who have served at least one year after certification in the same department in the same position title for which requisition is made, provided such persons have not been discharged for cause or have not resigned with charges pending. In the case of persons appointed temporarily on an intermittent or part-time basis after certification, the appointing authority shall submit proof to the Director that such persons have accrued sufficient periods of employment on a part-time or intermittent basis equivalent to one year of full-time employment.

3. When a requisition is received for temporary service, the employment of the persons appointed on this requisition shall continue only for the time stated in the requisition, unless the Director shall otherwise direct; provided, however, that no person shall be certified to fill a temporary vacancy for a period of more than one year; but at the expiration of such period, upon receipt of a new requisition or a request for extension of the employment of the temporary appointee, the Director may order a renewal certification of names from the eligible list for a like period and similarly renew the same from time to time.

4. Whenever the Director is unable to fill a requisition, he may authorize the appointing authority to make a provisional appointment. The person so selected shall register forthwith.

APPOINTMENT.

Rule 28.

1. The selection and appointment shall be made from the list certified as provided in Rule 14.

2. The Director may require that every person employed after certification shall fill out and file with his appointing authority a declaration sheet containing required data as to his personal identity and other pertinent information.

3. When the appointing authority has selected such of the persons certified as he may require, he shall within three weeks after the date of certification return to the Director a report on the certification made from the eligible list together with the appointment sheets duly filled out and showing the title of the position, the dates of birth and the social security numbers of the persons appointed and signed by the appointees and the appointing authority.

4. If any person certified fails to respond, or declines the employment offered, or fails to report for work after signifying his willingness to accept the position, his name and registration number shall be returned to the Director, with a statement of the facts; and his name shall be removed from the eligible list unless a satisfactory explanation of the failure to respond or refusal to work is given. His name may not be restored to the eligible list unless he makes request in writing within one year from the date of removal from the eligible list. If request is not made within this period, he must file a new application and he will be considered as a new applicant.

PROMOTION.

Rule 29.

1. Promotions in the Classified Labor Service shall be made from lower grade or grades as determined by the Director, of persons having the required qualifications and willing to accept such promotion. Selection shall be made from the three such oldest persons in length of service or if more than one vacancy from the same number of those oldest in length of service as provided for certification of eligibles under Rule 14. If there are less than three such persons, selection may be made from the lesser number. One year shall be added to the length of service of veterans, as defined in Chapter 31, Section 21, for the purpose of computing length of service under this rule.

2. Upon receipt of a certificate of the appointing authority satisfactory to the Director that the promotion is in accordance with the Civil Service Law and Rules, the Director may approve the promotion but such approval may be revoked by him within sixty days after the date of approval of the promotion if he is furnished evidence satisfactory to him that the promotion is not in accordance with the law* and rules.

RESTORATION TO LIST.

Rule 30.

1. Any person whose appointment has been legally made or authorized from the eligible list under the Civil Service Law and Rules, and whose service has been terminated without fault or delinquency on his part during the probationary period, may, upon his request made in writing within one year from the date of termination of his service, have his name restored to the said eligible list.

*See Section 8 of Chapter 31 of the General Laws.

APPROVAL OF STATE AND MUNICIPAL APPOINTEES.

Rule 31.

1. Before approval of the appointments of treasurers, stewards, business managers, adjutants and assistant adjutants in the institutional service of the Commonwealth, and assistant treasurers in the Department of Mental Health and the Soldiers' Home in Holyoke, the Director may request from the appointee and the appointee shall furnish such information as may be requested relative to his age, residence, training, experience, character, and qualifications in such form as the Director may require. The Director may provide for an oral interview and may require other satisfactory evidence to determine whether the applicant is qualified therefor, and the appointing authority shall furnish all personal records, correspondence, papers, petitions, recommendations and protests in his possession relating to the appointee.

The provisions of this rule shall also apply to any office or position in a municipality where approval of the appointment by the Director or the Commission is required by statute.

MEETINGS OF THE COMMISSIONERS.

Rule 32.

1. The Civil Service Commission shall hold a meeting on Tuesday of each week at 2:30 o'clock p.m., unless for good and sufficient reasons it shall otherwise determine; provided, however, that a meeting shall be held at least once in each month; and provided, further, that a meeting shall be held at the request of any member of the Commission or the Director.

APPEAL.

Rule 33.

1. The Commission may decline to entertain any appeal from any decision of the Director not received within thirty days of the date of the giving of notice by the Director to the appellant, or in cases of appeals regulated by statute within any lesser period provided therein.

DELEGATION OF FUNCTIONS.

Rule 34.

1. Pursuant to Section 2A, clause (o) of Chapter 31 of the General Laws, the Director may with the approval of the Commission, on his own initiative or in response to a request made by the mayor of any city with the approval of the city council, the selectmen of any town, or the manager of any city or town having the manager form of government, delegate the administration of civil service functions, so far as practicable, to such city or town.

SUBPOENAS.

Rule 35.

1. Any subpoena issued by the Civil Service Commission or the Director or any authorized representatives thereof, may require the attendance and testimony of witnesses. The subpoena shall be issued in the name of the Director or the Secretary to the Civil Service Commission or any authorized representatives thereof in the form prescribed by them, and served in the usual manner when issued at the request of parties to the proceeding before the Commission.

I hereby certify that the above is a true copy of the Civil Service Rules, including changes approved by the Governor on November 21, 1969 and effective on December 31, 1969.

NOTE: The footnotes are not a part of the Civil Service Rules.

MABEL A. CAMPBELL,
DIRECTOR OF CIVIL SERVICE

